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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 24—FORMAL EDUCATION REQUIREMENTS FOR APPOINTMENT TO CERTAIN SCIENTIFIC, TECHNICAL, AND PROFESSIONAL POSITIONS

PHYSICAL THERAPIST

Section 24.134 is added as set out below:

§ 24.134 *Physical Therapist, GS-633-0 (all grades)*—(a) *Educational requirements.* Applicants must be graduates of a school of physical therapy approved at the time of graduation by the Council on Medical Education and Hospitals of the American Medical Association. Applicants who graduated prior to 1936 must be graduates of a school of physical therapy approved at the time of graduation by the American Physical Therapy Association.

(b) *Duties.* With duties varying in responsibility in accordance with grade, physical therapists under general supervision of a medical officer, administer or supervise the administration of physical therapy in all branches.

(c) *Knowledge and training requisite for the performance of duties.* Physical Therapists must have a knowledge of sciences such as anatomy, physiology, psychology, pathology, neurology, sociology, and child growth and development; a knowledge of clinical subjects covering general medical and surgical conditions, orthopedics, psychiatric, pediatric, tuberculosis, cardiac, circulatory and neurological conditions; and theory courses interpreting the principles and practices of physical therapy in pediatrics, psychiatry, tuberculosis, orthopedics, general medicine and surgery, rehabilitation techniques, and therapeutic exercises. They must be able to perform tests such as manual or electrical muscle tests, joint measurement and range of motion, mobilization and ambulation, functional testing, activities of daily living, tests for peripheral vascular disease including skin temperature tests or oscillometric tests, determination of sensory patterns, activity tolerance, vital capacity measurement, and developmental level. They must be able to recognize the connotation of the diagnosis so that limitations

of the physical condition of the patient can be related to the treatment program. They must have a scientific knowledge of the use of physical therapy equipment, and be able to plan for and/or construct specific equipment adaptations to meet the specific patient's needs. They must be able to anticipate and to recognize changes in the patient's physical or emotional condition and be able to make immediate adjustments in the treatment program. The necessary knowledges and training required can only be acquired through a directed course of study in an approved physical therapy school.

(Sec. 11, 58 Stat. 390; 5 U. S. C. 860)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 56-8186; Filed, Oct. 10, 1956; 8:50 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6454]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

ILLINOIS TRAVELING MEN'S HEALTH ASSOCIATION

Subpart—*Advertising falsely or misleadingly:* § 13.260 *Terms and conditions:* Insurance coverage. Subpart—*Misrepresenting oneself and goods—Goods:* § 13.1760 *Terms and conditions:* Insurance coverage. Supart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1905 *Terms and conditions:* Insurance coverage.¹

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Illinois Traveling Men's Health Association, Chicago, Ill., Docket 6454, September 25, 1956]

This proceeding was heard by a hearing examiner on the complaint of the Commission—charging an insurance company with misrepresenting the terms and conditions of its accident and health insurance policies in advertising in printed and written matter and in state-

¹ New.

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ments made by its agents which represented falsely that certain policies could be continued to a specific age or for a specific period of time and provided cash benefits for losses resulting from any and all sicknesses and accidents, excepting only insanity, venereal disease, and hernia; and with misrepresenting cash benefits payable for losses caused by accidents—and an agreement between the parties providing for entry of a consent order.

On this basis, the hearing examiner made his initial decision and order to cease and desist which became on September 25 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered. That respondent, Illinois Traveling Men's Health Association, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of any accident insurance policy, or health insurance policy, do forthwith cease and desist from:

(A) Representing, directly or by implication:

(1) That said insurance policy may be continued in effect indefinitely or for any period of time, when, in fact, said policy provides that it may be cancelled by respondent or terminated under any circumstances over which the insured has no control, during the period of time represented.

(2) That said policy of accidental insurance provides for indemnification to insured in cases of accident generally or in any or all cases of all accident, when such is not the fact.

(3) That said policy of health insurance provides for indemnification to insured for all disability caused by illness generally when such is not the fact.

(4) That said accident policy provides for the payment of certain benefits in addition to other benefits when such is not a fact.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered. That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: September 25, 1956.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 56-8188; Filed, Oct. 10, 1956; 8:50 a. m.]

[Docket 6558]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

I. J. FOX, INC., ET AL.

Subpart—Advertising falsely or misleadingly: § 13.30 Composition of goods: Fur Products Labeling Act; § 13.73 Formal regulatory and statutory requirements: Fur Products Labeling Act; § 13.155 Prices: Fictitious Marking; § 13.175 Quality of products or service; § 13.235 Source or origin: Place: Foreign, in general Subpart—Invoicing products falsely: § 13.1108 Invoicing products falsely: Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1190 Composition: Fur Products Labeling Act; § 13.1212 Formal regulatory and statutory requirements: Fur Products Labeling Act; § 13.1280 Price. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 Composition: Fur Products Labeling Act; § 13.1852 Formal regulatory and statutory requirements: Fur Products Labeling Act; § 13.1900 Source or origin: Fur Products Labeling Act: Place.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U. S. C. 45, 69f) [Cease and desist order, I. J. Fox, Inc., et al., Cleveland, Ohio, Docket 6558, September 19, 1956]

In the Matter of I. J. Fox, Inc., a Corporation, and Charles K. Fox and Max Weisman, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission—charging a Cleveland seller of fur products to cease violating the Fur Products Labeling Act through labeling certain of its products with fictitious prices and failing to label others with the information, and in the form, required by the act; through invoicing products deceptively; through advertising in newspapers which failed to disclose the names of animals producing certain furs, the country of origin, the fact that others were artificially colored, and misrepresented quality, characteristics, and prices; and through failing to maintain records on which such purported reduced prices were based—and an agreement between the parties containing consent order to cease and desist.

On this basis, the hearing examiner made his initial decision and order to cease and desist which became on September 19 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That Respondents I. J. Fox, Inc., a corporation, and its officers, and Charles K. Fox and Max Weisman, individually, and as officers of said corporation, and Respondents' agents, representatives and employees, directly or through any corporate or other device in connection with the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce of any fur product or in connection with the sale, advertising, offering for sale, transportation or distribution of any fur product which is made in

whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Failing to affix labels to fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur product contains or is composed of used fur, when such is a fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is a fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is a fact;

(e) The name, or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, sold it in commerce, advertised, or offered it for sale in commerce, or transported or distributed it in commerce;

(f) The name of the country of origin of any imported furs used in the fur product;

2. Setting forth on labels attached to fur products:

(a) Required information in abbreviated form or in handwriting;

(b) Non-required information mingled with required information;

(c) Prices represented to be the regular or usual price of any fur products which are an amount in excess of the prices at which the respondents have usually or customarily sold such fur products in the recent regular course of their business;

3. Failing to show separately on labels attached to a fur product composed of two or more sections containing different animal furs the required information with respect to the fur comprising each said section;

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur product contains or is composed of used fur, when such is a fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is a fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is a fact;

(e) The name and address of the person issuing such invoice;

(f) The name of the country of origin of any imported fur contained in a fur product;

2. Setting forth required information in abbreviated form;

3. Failing to set forth on invoices pertaining to fur products an item number or mark assigned to such products;

C. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote or assist, directly or indirectly, in the sale or offering for sale of fur products, and which:

1. Fails to disclose:

(a) The name or names of the animal or animals that produced the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

(c) The country of origin of imported furs as required by the Fur Products Labeling Act or in the manner and form permitted by § 301.38 (b) (Rule 38 (b)) of the rules and regulations promulgated thereunder;

2. Represents, directly or by implication:

(a) That fur products are made from "pedigreed Persian Lambs" or which through the use of the word "pedigree" or any other word of similar import or meaning misrepresents the quality or characteristics of the fur products so advertised;

(b) That the regular or usual price of any fur product is any amount which is in excess of the price at which the respondents have usually and customarily sold such products in the recent regular course of their business;

D. Using comparative prices and percentage savings claims in advertising unless such prices and claims are based on current market values or unless the designated time of a bona fide compared price is given;

E. Making pricing claims or representations of the type referred to in paragraphs C (2) (b) and D, above, unless there is maintained by respondents an adequate record disclosing the facts upon which such claims and representations are based.

By "Decision of the Commission," etc., report of compliance was required as follows:

It is ordered, That respondents I. J. Fox, Inc., a corporation, and Charles K. Fox and Max Weisman, individually and as officers of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: September 19, 1956.

By the Commission.

[SEAL]

ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 56-8189; Filed, Oct. 10, 1956; 8:50 a. m.]

TITLE 14—CIVIL AVIATION

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 216]

PART 609—STANDARD INSTRUMENT APPROACH PROCEDURES

PROCEDURE ALTERATIONS

The standard instrument approach procedure alterations appearing hereinafter are adopted to become effective when indicated in order to promote safety. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to the public interest, and therefore is not required.

Part 609 is amended as follows:

NOTE: Where the general classification (LFR, VAR, ADF, ILS, GCA, or VOR), location, and procedure number (if any) of any procedure in the amendments which follow, are identical with an existing procedure, that procedure is to be substituted for the existing one, as of the effective date given, to the extent that it differs from the existing procedure; where a procedure is canceled, the existing procedure is revoked; new procedures are to be placed in appropriate alphabetical sequence within the section amended.

1. The low frequency range procedures prescribed in § 609.6 are amended to read in part:

LFR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, and courses are magnetic. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. If an LFR instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach with a different procedure for such airport authorized by the Administrator of Civil Aeronautics. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operations in the particular area or as set forth below.

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance to facility to airport	Ceiling and visibility minimums				If visual contact not established at authorized minimums after passing facility within distance specified, or if landing not accomplished
							Condition	2 engines or less	More than 2 engines	More than 65 knots	
1	2	3	4	5	6	7	8	9	10	11	12
ANCHORAGE, ALASKA Merrill Field, 137' SBRAX-VPD TX-ANC. Procedure No. 1. Amendment No. 7. Effective date: November 3, 1956. Supersedes Amendment 6, dated May 28, 1955. Major changes: (1) Item 3, changed to: "ceiling is 1,300' on E course." (2) Item 3, changed to: "ceiling is 1,300' on W course." (3) bearing and distance, column 7 shown to runway 32.	Jewel Lake FM (final)..... Northeast course not authorized due to danger area D-348.	003-4.8	800	Non-standard. W side of SW course: 185° outbound, 60° inbound, 1,300' within 10 miles of Anchorage LFR.	800	235-0.7	T-dm C-dm A-dm	300-1 300-1 300-2	300-1 300-1 300-2	200-1 200-1 300-2	Within 0.7 mile, climb to 1,300' on NW course (255°) Anchorage LFR to minimum intersection. CAUTION: Mountain 8 miles E and 1/2 mile W of runway 32. 1 mile WNW of airport.
FORT BRIDGER, WYO. Fort Bridger International Field, 7,016' SBRAX-VD T-FBR. Procedure No. 1. Amendment No. 6. Effective November 3, 1956. Supersedes Amendment 5, dated December 1, 1951. Major changes: Restricts air carrier operation.				N side E course: 655° outbound, 285° inbound, 8,300' within 10 miles. Not authorized beyond 10 miles.	7,300	245-1.6	T-dm C-dm A-dm	300-1 300-1 300-2 NA	300-1 300-1 300-2 NA	200-1 200-1 300-2 NA	Within 1.5 mile, turn right and climb to 10,000' on E course within 20 miles of LFR range. Not authorized for air carrier use. No weather reporting facilities or NOTAM service at this airport.

LFR STANDARD INSTRUMENT APPROACH PROCEDURES—Continued

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance to facility to airport	Ceiling and visibility minimums			If visual contact not established at authorized minimums after passing facility within distance specified, or if landing not accomplished
							Condition	2 engines or less	More than 2 engines, more than 65 knots	
1			4	5	6	7	8	9	10	11
RAPID CITY, S. DAK. RAPID CITY, S. DAK. SHEAR-DRY-RAP. Combination LFR and VOR. Procedure No. 2. Original. Effective date: November 3, 1956. Supersedes none. Major changes: None.	RAP LFR	Inter- section* 075-4.8	4,400	S side E course: 075° inbound. 235° outbound. 4,400' within 10 miles of RAP LFR.	Minimum altitude over intersection 4,400	Intersection* to airport 241-3.3	T-4a #C-4a A-4a	300-1 600-1 800-2	200-1 600-1 800-2	200-1 600-1 800-2
	RAP VOR	Inter- section* 091-5.0	4,400							

2. The automatic direction finding procedures prescribed in § 609.8 are amended to read in part:

ADF STANDARD INSTRUMENT APPROACH PROCEDURES

Bearings, headings, and courses are magnetic. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation.

If an ADF instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted with a different procedure for such airport authorized by the Administrator of Civil Aeronautics. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

City and State; airport name, elevation; facility; class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance to facility to airport	Ceiling and visibility minimums			If visual contact not established at authorized landing minimums after passing facility within distance specified, or if landing not accomplished
							Condition	2 engines or less	More than 2 engines, more than 65 knots	
1			4	5	6	7	8	9	10	11
FINDLAY, OHIO. Findlay Airport, 80'. RMH-FDY. Procedure No. 1. Amendment original. Effective date: November 3, 1956.	Findlay VOR	041-3.0	2,000	E side of course: 180° inbound. 360° outbound. 2,000' within 10 miles.	1,200*	RMH on airport	T-4a #C-4a #S-4a A-4a	300-1 500-1 600-1 800-2	300-1 500-1 600-1 800-2	250-1 500-1 600-1 800-2

*Within 0.6 miles of Findlay RMH make a left climbing turn to 2,000'. Hold S. in a standard pattern 360° inbound at 2,000'.
*Maintain 1,800' until after passing Findlay VOR 041° radial.
Ceiling minimum of 600' applicable without use of VOR.

3. The very high frequency omnirange (VOR) procedures prescribed in § 609.9 are amended to read in part:

VOR STANDARD INSTRUMENT APPROACH PROCEDURES

Bearings, headings, courses, and radials are magnetic. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation.

If a VOR instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of Civil Aeronautics. Initial approaches shall be made over specified routes. Minimum altitudes shall be those established for en route operation in the particular area or as set forth below.

City and State, airport name, elevation, facility, class and identification; procedure No.; effective date	Initial approach to facility from—	Course and distance	Minimum altitude (ft.)	Procedure turn (—) side of final approach course (outbound and inbound); altitudes; limiting distances	Minimum altitude over facility on final approach course (ft.)	Course and distance, facility to airport	Ceiling and visibility minimums			If visual contact not established at authorized minimum after passing facility within distance specified or if landing not accomplished	
							Condition	2 engines or less	More than 2 engines		
1	2	3	4	5	6	7	8	9	10	11	12
FINDLAY, OHIO. Findlay Airport, 807. VOR-FDY. Procedure No. 1. Amendment original. Effective date: November 3, 1956.				E side of course: 225° outbound. 045° inbound. 2,000' within 10 miles.	1,500	221—2.5	T-dm C-d S-d A-dm	300-1 300-1 300-2 300-1 300-1 300-2 300-2 300-2	300-1 300-1 300-2 300-2 300-1 300-1 300-2 300-2	200-1 200-1 200-2 200-2 200-1 200-1 200-2 200-2	Within 9.5 miles make a climbing left turn, return to Findlay VOR at 2,000'. Hold southeast on radial 225° in a 1 minute right hand pattern. CAUTION: Radio tower 1,049' mean sea level 1.5 miles SSE of airport.
GOODLAND, KANS. Goodland, 3,587'. BVOB-GLD. Procedure No. 1. Amendment No. 2. Effective date: November 3, 1956. Supersedes Amendment 1, dated September 8, 1956. Major changes: (1) Corrects altitude to 4,500', columns 5 and 6.				W side of course: 010° outbound. 190° inbound. 4,500' within 10 miles.	4,500	190—0.7	*T-dm *C-dm *A-dm	300-1 1,100-2 1,100-2	300-1 1,100-2 1,100-2	200-1 1,100-2 1,100-2	Within 0.7 mile, climb to 5,000' on 190° radial within 20 miles. CAUTION: 4,482' mean sea level tower 1.7 miles S of airport and 4.021' mean sea level tower 2 miles SW of airport. *Night operation authorized only on NW/SE runway.
HAWAII, HAWAII. Upolu Point Airport, 90'. BVOB. UPP. Procedure No. 1. Amendment No. 3. Effective November 3, 1956. Supersedes Amendment 2, dated December 18, 1955. Major changes: New format. Lower minima. Change missed approach altitude.				N side of course: 295° outbound. 065° inbound. 3,000' within 10 miles.	1,400	290—1.5	T-dm C-d C-n A-dm	300-1 300-1 300-1 1,000-2	300-1 300-1 300-2 1,000-2	500-1 500-1 500-2 700-2 1,000-2	#Within 3.0 miles on course 295° climb to 3,000' on course 395° within 10 miles, reverse course climbing to 4,000' over VOR. NOTE: Distances, VOR to missed approach point exceeds standard. CAUTION: High terrain SE; Loxan tower 334' mean sea level 1.6 miles SW of airport.
MORGANTOWN, W. VA. Morgantown, 1,256'. VOR-DME-MGW. Procedure No. 1. Amendment No. 2. Effective date: November 3, 1956. Supersedes Amendment 1, dated September 28, 1954. Major changes: Correct the cannot DME altitudes after passing facility.	10 miles fix radial 135° (final).	328—10	3,000	E side of course: 135° outbound. 335° inbound. 4,000' within 10 miles. Procedure turn need not be accomplished with DME.	3,000	328—5.6	With DME: T-dm C-d C-n A-dm Without DME: T-dm C-d C-n A-dm	300-1 300-1 300-2 300-2 300-1 1,400-1 1,400-2 1,600-3	300-1 300-1 300-2 1,400-2	500-1 500-1 500-2 700-2 1,000-2	Within 5.6 miles, climb to 3,000' on radial 335° within 10 miles. #DME mean sea level altitudes after passing MGW VOR on final: 1 mile, 2,700'. 2 miles, 2,800'. 3 miles, 2,900'. 4 miles, 2,900'. 5 miles, 3,000'.

4. The instrument landing system procedures prescribed in § 609.11 are amended to read in part:

ILS STANDARD INSTRUMENT APPROACH PROCEDURES

Bearings, headings, and courses are magnetic. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation.

If an ILS instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach with a different procedure for such airport authorized by the Administrator of Civil Aeronautics. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below:

City and State; airport name; elevation; facility; class and identification; procedure No.; effective date	Transition to ILS			Procedure turn (—) side of final approach course (outbound; altitude; limiting distances)	Minimum altitude at glide slope intercept (ft.)	Altitude of glide slope and distance to approach end of runway at—		Ceiling and visibility minimums				If visual contact not established upon descent to authorized landing minimums or if landing not accomplished—		
	From—	To—	Course and distance			Minimum altitude (ft.)	Outer marker	Middle marker	Condition	2 engines or less	More than 2 engines			
										65 knots or less	More than 65 knots			
1	2	3	4	5	6	7	8	9	10	11	12	13	14	
AMARILLO, TEX. Air Terminal, 3,034'. ILS-IAMA. RVOR-AMA. Combination ILS and VOR. Procedure No. 2. Amendment original. Effective date: November 2, 1956.	Amarillo LFR.....	AMA VOR.....	042-6.0	4.90	N side of NE course; 600' outbound, 250' inbound, 4,900' within 18 miles of AMA VOR.	No glide slope; 4 miles from VOR to approach end of Runway 21.			T-dn C-dn	300-1 400-1	300-1 500-1	300-1 500-1½	200-1½ 500-1½	Within 4 miles climb to 5,000' on SW course ILS or radial 209° or when directed by ATC turn left, climb to 4,700' on radial 075° within 25 miles.
COLUMBUS, OHIO. Port Columbus, 836'. ILS-CMH. LOM-CM. Combination ILS-ADF. Procedure No. 1. Amendment No. 7. Effective date: November 2, 1956. Supersedes Amendment 6, dated August 11, 1956. Major changes: Provides transition from Appleton VOR.	Columbus LFR..... Appleton VOR..... (Final Transition-ILS)	LOM..... E course ILS (Final Transition-ILS)	060-7.5 186-9.3	2.30 2.50	N side E course; 100' outbound, 270' inbound, 2,300' within 10 miles. Not authorized beyond 10 miles.	ILS 2,500 ADF 2,000 over LOM	2,305-4.4 1,000-0.6		T-dn C-dn	300-1 400-1	300-1 500-1	300-1 500-1½	200-1½ 500-1½	3.4 miles after passing LOM (ADF), climb to 2,500' on W course ILS or course 200° from LOM within 15 miles.

These procedures shall become effective on the dates indicated on the procedures.

(Sec. 203, 52 Stat. 994, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

[SEAL]

S. A. KEMP,
Acting Administrator of Civil Aeronautics.

[F. R. Doc. 56-7651; Filed, Oct. 9, 1956; 8:45 a. m.]

TITLE 25—INDIANS

Chapter 1—Bureau of Indian Affairs,
Department of the Interior

Subchapter 1—Irrigation Projects; Operation and Maintenance

PART 130—OPERATION AND MAINTENANCE CHARGES

SAN CARLOS INDIAN IRRIGATION PROJECT,
ARIZONA; ASSESSMENTS, JOINT WORKS

On August 8, 1956 (21 F. R. 5932), there was published a notice of intention to amend § 130.63, 25 CFR to increase the

annual rate of assessments for the operation and maintenance of the Joint Works part of the San Carlos Indian Irrigation Project, Arizona (the works serving the Indian and non-Indian lands), from \$1.20 per acre to \$1.35 per acre, for the 100,000 acres of project lands. Interested persons desiring to participate in formulating the amendment could do so by filing written statements or data with the Area Director of the Bureau of Indian Affairs, with headquarters at Phoenix, Arizona, not later than August 28, 1956. Within the time allowed no objections were filed. I

have therefore concluded that the total amount of the estimated assessment should be \$135,000 or \$1.35 per acre annually, effective for the fiscal year 1958 and thereafter until further notice. Accordingly § 130.63 of 25 CFR is amended to read as follows:

(a) Pursuant to the act of Congress approved June 7, 1924 (43 Stat. 476) and supplementary acts, and the repayment contracts of June 8, 1931, as amended, between the United States and the San Carlos Irrigation and Drainage District, and in accordance with applicable provisions of the order of the Secretary of the Interior of June 15, 1938 (§§ 130.63a-130.69m), the cost of the operation and maintenance of the Joint Works of the San Carlos Indian Irrigation Project for the fiscal year 1958 is estimated to be \$135,000 and the rate of assessment for the said fiscal year and subsequent years until further order, is hereby fixed at \$135 for each acre of land.

The foregoing changes are to become effective for the fiscal year 1958 and continue thereafter until further notice; the assessment for that part payable by the San Carlos Irrigation and Drainage Dis-

trict being due in advance of such fiscal year on March 1; for that part payable for the 50,000 acres of Indian land will be as provided in §§ 130.110 to 130.116, inclusive.

(Secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U. S. C. 385)

L. L. NELSON,
Acting Area Director.

[F. R. Doc. 56-8157; Filed, Oct. 10, 1956;
8:45 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 946—MILK IN LOUISVILLE, KY., MARKETING AREA

NOTICE OF CORRECTION WITH RESPECT TO ORDER REGULATING HANDLING

In F. R. Doc. 56-7924 filed September 28, 1956, page 7521, column 3, the third full paragraph beginning in such column should read: "Issued at Washington, D. C., this 26th day of September 1956, to be effective October 1, 1956."

Issued at Washington, D. C., this 5th day of October 1956.

[SEAL]

EARL L. BUTZ,
Acting Secretary.

[F. R. Doc. 56-8171; Filed, Oct. 10, 1956;
8:47 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter B—Claims and Accounts

PART 536—CLAIMS AGAINST THE UNITED STATES

CLAIMS OF MILITARY PERSONNEL AND CIVILIAN EMPLOYEES FOR PROPERTY LOST OR DAMAGED INCIDENT TO SERVICE

Section 536.27 is revised to read as follows:

§ 536.27 *Claims of military personnel and civilian employees for property lost or destroyed incident to service*—(a) *Statutory authority.* The statutory authority for the regulations of this section is contained in Title 10, United States Code, section 2732. Under this authority, the maximum amount which may be allowed on a claim is \$6,500.

(b) *Scope.* The regulations of this section prescribe the substantive basis for the settlement of claims against the United States of military personnel or civilian employees of the Department of Defense, the Department of the Army, or the Army, for the damage to, loss, destruction, capture, or abandonment of personal property incident to their service. Any claim within the scope of Title 10, United States Code, section 2732, which otherwise would be cognizable under §§ 536.12 to 536.23, 536.25, 536.26, 536.29, or 536.45, will be settled under the regulations of this section.

(c) *Definitions.* See §§ 536.1 to 536.8. As used in this section, the following terms have the meanings here indicated:

(1) *Civilian employees.* Employees of the Department of Defense, of the Department of the Army, or of the Army, who were being paid from appropriated funds at the time of the incident which resulted in the damage or loss.

(2) *Damage or loss.* Includes destruction, capture, or abandonment.

(3) *Property.* Tangible personal property, other than property of the United States (paragraph (e) (5) of this section).

(d) *Claims payable*—(1) *General.* Claims are payable only for such types and quantities or amounts of property, including money, as shall be determined by the approving authority to have been reasonable, useful, necessary, or proper, in the attendant circumstances, for military personnel or civilian employees to have had or used and to have been damaged or lost incident to their service. A claim may be approved even though the property was not in possession of the claimant at the time of damage or loss, or was not owned by the claimant, providing it was lawfully under his dominion and control (e. g., property borrowed from others).

(2) *Examples.* The following are examples of circumstances in which claims for damage to or loss of property may be favorably considered.

(i) *In quarters or other authorized places.* Damage to or loss of property by fire, flood, hurricane, or other serious occurrence, or by theft, while located at:

(a) Quarters occupied by the claimant, which were assigned to him or otherwise provided in kind by the Government.

(b) Quarters outside the continental United States, or in Alaska, occupied by the claimant but not assigned to him or otherwise provided in kind by the Government, except when the claimant is a civilian employee who is a local inhabitant, or

(c) Any warehouse, office, hospital, baggage dump, or other place suitable for the reception or storage of the property.

(ii) *Transportation losses.* Damage to or loss of property, including baggage checked or in the claimant's personal custody, by a common or contract carrier or an agent or agency of the Government, or in a private conveyance:

(a) When shipped under orders, or

(b) In connection with travel under orders or in performance of military duty.

(iii) *Marine or aircraft disaster.* Damage to or loss of property as a consequence of perils of the sea or air.

(iv) *Enemy action.* Damage to or loss of property due to:

(a) Action by an enemy, or threat of such action; preventing capture or confiscation; or combat, guerrilla, brigandage, or other belligerent activity, whether or not the United States was involved or

(b) Unjust confiscation by a foreign power or its nationals.

(v) Civil disturbance, public disaster, or public service. Damage to or loss of property:

—(a) Due to civil disturbance or public disaster, or

(b) As a direct consequence of action by the claimant in trying to save Government property or human life.

(vi) *Money.* Loss of personal funds which were delivered to and accepted by personnel with apparent authority to receive them for such purposes as safekeeping, deposit in soldiers' deposit accounts, transmission by personal transfer account, purchase of United States bonds or postal money order, or conversion into military payment order, Government check, or another kind of currency, and which were neither applied as directed by the owner nor returned to him.

(vii) *Motor vehicles.* Damage to or loss of motor vehicles occurring when used in the performance of military duty. As used here, military duty does not include travel between quarters and place of duty, or the parking of the vehicle incident to such travel.

(e) *Claims not payable.* Among others, allowances may not be made for:

(1) Clothing being worn, except under the circumstances set out in paragraph (d) (2) (iii), (iv), and (v) of this section.

(2) Articles to be disposed of by sale.

(3) Precious jewels and other articles of extraordinary value, in excess of the reasonable price of substitute articles of average value or quality.

(4) Intangible property, such as checks, promissory notes, stock certificates, bonds, bills of lading, warehouse receipts, baggage checks, insurance policies, money orders, travelers' checks, and bank books.

(5) Government property except that for which the claimant is responsible to a Government agency other than the Department of the Army, the Army, or the Department of Defense.

(6) Enemy property.

(7) Losses of subrogees.

(8) Losses recoverable from an insurer or carrier (paragraph (h) (3) of this section).

(9) Losses recoverable under contract.

(10) Damage or loss due to any negligence of the claimant, or any agent or employee of the claimant acting in the scope of his employment, and

(11) Small articles of substantial value, usually worn or carried, and easily pilfered, such as cameras, watches, rings, necklaces, when shipped with household goods or as unaccompanied baggage.

(12) Property acquired, possessed, or transported in violation of competent regulations or directives.

(f) *Statute of limitations.* (1) No claim may be paid unless it is presented in writing within 2 years after the incident out of which it arose. If the incident occurs in time of war or armed conflict in which the Armed Forces of the United States are engaged, or if war or armed conflict intervenes within 2 years after the claim accrues, the claim may, on good cause shown, be presented within 2 years after such good cause ceases to exist but not later than 2 years after peace is established or the armed conflict terminates. Good cause must be shown for any delay exceeding 2 years after the occurrence out of which the claim arose.

(2) A claim should be presented as soon as possible after discovery of the damage or loss. Immediate action by a claimant will facilitate the settlement of his claim, as delays cause difficulty in securing statements of essential witnesses or necessary documents. Failure of a claimant to make demand on the last carrier within 9 months may reduce the amount allowable (paragraph (h) (4) of this section).

(g) *Claimants.* A claim may be presented only by a military person or a civilian employee, his authorized agent, surviving spouse, or legal representative. If the damage or loss occurs concurrently with or subsequent to the death of the military person or civilian employee who would otherwise be the claimant, the claim may be presented, in the following order of precedence, by the decedent's surviving:

- (1) Spouse.
- (2) Child or children.
- (3) Father, mother, or both, or
- (4) Brother, sister, or both.

(h) *Demand on carrier or insurer.*

(1) *Carrier.* When it appears that damage to or loss of property has occurred under circumstances in which a carrier is responsible, the claimant will, within 9 months after delivery or the date on which delivery should reasonably have been made, and prior to presenting his claim, make demand in writing upon the last carrier known or believed to have handled the shipment for reimbursement for such damage or loss, using DA Form 1819 (Demand on Carrier for Damage to or Loss of Property). If more than one bill of lading or contract was issued, a separate demand will be made upon the last carrier under each bill of lading or contract. No such demand is required when it appears that the damage or loss resulted from improper packing, storage, or other cause not within the control of the carrier. The claimant should accept any amount offered in settlement by the carrier.

(2) *Insurer.* When the property damaged or lost was insured in whole or in part, the claimant will, within the time prescribed in the insurance policy and prior to presenting his claim, make demand in writing on the insurer for reimbursement under the terms and conditions of the policy. The claimant may accept any amount offered in settlement by the insurer. When the amount recovered or recoverable by the claimant from an insurer is less than the total loss, the amount so recovered or recoverable will be prorated between the amount approved (deemed meritorious) and the amount determined not to be payable for property excluded by paragraphs (d) (1) and (e) of this section.

(3) *Action after demand.* The claimant may present his claim at any time after he has made demand on the carrier, or the insurer, or both, if both a carrier and an insurer are involved. A copy of the demand, and of any reply, will be presented with the claim (paragraph (k) (2) of this section). The

claimant will notify the claims officer promptly of any subsequent action by the carrier or the insurer, including settlement, partial settlement, or denial of liability. The amount offered in settlement by the carrier or the insurer and accepted by the claimant will be deducted from the amount which might otherwise be found payable under this section.

(4) *Failure to make demand.* When a demand on a carrier or insurer is required and the claimant fails to make such demand seasonably, or fails to make reasonable efforts to recover from the carrier or insurer, the amount otherwise payable under this section may be reduced by the maximum amount which would have been recoverable if the claim against the carrier or the insurer had been filed seasonably, or diligently prosecuted. However, this requirement may be waived in cases in which the circumstances of claimant's service precluded seasonable filing or diligent prosecution of the claim, or demand was impracticable.

(5) *Transfer of rights.* The claimant will assign to the United States, to the extent of any payment on his claim accepted by him, all his right, title, and interest in any claim he may have against any carrier, insurer, or other party, arising out of the incident on which the claim against the United States is based. He will also, upon request, furnish such evidence as may be required to enable the United States to enforce the claim. After payment of his claim by the United States, the claimant will, upon receipt of any payment from a carrier or insurer, pay the proceeds to the United States to the extent of the payment received by him from the United States.

(i) *Form of claim.* The claimant will normally submit his claim, in triplicate, on DA Form 1089 (Claim for Personal Property). Any writing will be received and considered as a claim if it makes demand for a definite sum, sets forth the facts and circumstances in detail, and shows that:

- (1) It comes within the provisions of this section.
- (2) The damage or loss was not due to any negligence of the claimant or his agents or employees.
- (3) The property has not been recovered or replaced by the Government, except as shown.
- (4) The property was not insured, or if it was, that timely demand was made on the insurer, or that demand was not made for adequate specified reasons, and
- (5) A demand was made on the carrier if required.

(j) *Determination of compensation.*

(1) The allowable compensation will not exceed the cost of the property (that is, the price paid in cash or property, or the value at time of acquisition if not acquired by purchase or exchange) and will be determined by deducting from the cost a percentage thereof based on the type of property involved, the condition when damaged or lost, and the time elapsed between the date of acquisition and the date of the accrual of the claim.

(2) The allowable compensation for an expensive article, including an heirloom or an antique, or for an item purchased at an unreasonably high price, will be based upon the purchase price of a substitute article of a similar type.

(3) The allowable compensation for an article acquired by barter will not exceed the cost of the article exchanged.

(4) The Chief, Claims Division, Office of The Judge Advocate General, is authorized to promulgate from time to time guides for determining allowable compensation for specific articles, including maximum amounts, and establishing the maximum quantities for which compensation may be allowed. In the application of such guides, consideration will be given to the claimant's standard of living, his income and social obligations, the size of his family and his need to have more than average quantities.

(k) *Evidence.* Requirements as to evidence are covered generally in §§ 536.1 to 536.8. Except in cases involving small claims, the claimant will furnish, in addition to a statement of the facts and circumstances in detail, the following evidence in support of a claim for damage or loss:

(1) In quarters or authorized places, a statement indicating:

- (i) Geographical location,
- (ii) Whether assigned or provided in kind by the Government,
- (iii) Whether regularly occupied by the claimant,
- (iv) Name of authority, if any, who designated the place of storage of the property, if other than quarters, and
- (v) Measures taken for the protection of the property.

(2) In transportation:

- (i) Copy of orders authorizing the travel, transportation, or shipment, or certificate explaining the absence of orders, and stating their substance.
- (ii) Statement of facts establishing the transportation or shipment of the property.
- (iii) Copy of demand on carrier or insurer, or both, when required and the reply, if any (paragraph (h) of this section).

(iv) Statement indicating action taken to locate the property (missing baggage), with related correspondence.

(v) Statement indicating, if property was delivered to a quartermaster, transportation, or supply officer, or contract packer:

- (a) Name, or designation, and address,
- (b) Date of delivery,
- (c) Condition of property,
- (d) When and where property was packed, by whom, and method of packing and crating,
- (e) Date of shipment and reshipment,
- (f) Date and place of delivery to claimant,
- (g) Date of unpacking,
- (h) Names of disinterested witnesses as to condition of the property when received, delivered, or as to handling or storage.

(vi) Statement whether application was made pursuant to Joint Travel Regulations for the shipment of articles of

gold or silver, paintings, or other articles of extraordinary value.

(3) In marine or aircraft disaster—copy of orders or other evidence to establish claimant's right to be, or to have his property on board.

(4) Due to enemy action or public service:

(i) Copy of orders or other evidence establishing claimant's authorized presence in the area.

(ii) Statement showing applicable cause enumerated in paragraph (d) (2) (iv) or (e) of this section.

(5) Of money delivered to another:

(i) Names, grades, service numbers, if any, and addresses of the person who received the money, and others involved.

(ii) Statement of circumstances indicating apparent authority of the person receiving the money, and

(iii) Receipts, or written statements explaining the failure to present them.

(i) *Replacement in kind.* The commanding officer of the unit with which the claimant is serving, or to which he belongs, acting in person or through his judge advocate or if he has none, a designated officer, may direct replacement of the property damaged or lost, in kind, from available stocks. When this is done, a copy of the claim, with the order directing the replacement, will be delivered to the organization making such replacement for its property records. The claimant may be required to sign a receipt indicating that the property for which claim is made has been replaced in kind. The action by or for the commanding officer directing replacement in kind, and the replacement effected in compliance with such action, will be final for all purposes, and the claim as to that property will be considered settled. If only part of the property damaged or lost is so replaced, the claim file will be forwarded in accordance with §§ 536.1 to 536.8 and will include the issue slip or other evidence of the items replaced and a statement as to the value of each.

(m) *Settlement of claims—(1) Authority.* The Chief, Claims Division, Office of The Judge Advocate General, and all officers of the Judge Advocate General's Corps assigned to that Division, have been designated to consider, ascertain, adjust, determine and settle claims under Title 10, United States Code, section 2732, and this section. The exercise of this authority is subject to such limitation as the Chief, Claims Division, considers appropriate.

(2) *Effect of action.* The action of the approving authority is, by statute, final and conclusive for all purposes.

(3) *Notice to claimant.* The claimant will be notified by letter of the action taken.

(4) *Settlement agreement.* A settlement agreement is not required.

[AR 25-100, Sept. 12, 1956] (10 U. S. C. 2732)

[SEAL]

JOHN A. KLEIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 56-8156; Filed, Oct. 10, 1956; 8:45 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 11546; FCC 56-963]

[Rules Amdt. 3-33]

PART 3—RADIO BROADCAST SERVICES

MECHANICAL REPRODUCTIONS

In the matter of amendment of §§ 3.118, 3.288, 3.588 and 3.653 of the Commission's rules and regulations relating to mechanical reproductions.

1. The Commission has under consideration its notice of proposed rule making issued November 17, 1955 (FCC 55-1136) proposing to amend §§ 3.118 (AM), 3.288 (FM), 3.588 (noncommercial FM) and 3.653 (TV) of the Commission's rules and regulations which relate to the announcement requirements for programs broadcast by means of mechanical reproduction. By that notice, it was proposed that the above mechanical reproduction rules be uniformly amended to relax the present identification requirements for recorded programs so as to require announcements for mechanically reproduced programs only in the case of a speech, news event, news commentator, forum, panel discussion, special event, or any other such program in which the element of time is of special significance and presentation of which would create, either intentionally or otherwise, the impression or belief on the part of the audience that the event or program being broadcast is, in fact, occurring simultaneously with the broadcast. Another amendment, much narrower in scope than the foregoing proposal which substantially encompasses it, was also proposed. This later proposal would amend the mechanical reproduction rules only to the extent of making the present waiver provision in paragraph (a) (6) of § 3.118 (AM) ¹ of the rules applicable to the FM, noncommercial FM and TV mechanical reproduction rules and extend the waiver provision, which now permits elimination of mechanical reproduction announcements only with respect to network programs delayed for one hour because of daylight saving time in some areas, to network programs which are transcribed and rebroadcast at a later hour because of the time differential resulting from the time zone differences between the place where the program originates and where it is rebroadcast. The notice was issued in response to a petition filed by the National Association of Radio and Television Broadcasters urging the broad revision of the AM, FM and TV mechanical reproduction rules and by a petition filed by the American Broadcasting Company for the amendment of the footnote waiver provision.

2. Comments on the proposed amendments were received from the petitioners,

¹ Prior to recodification of Part 3 of the rules, effective January 2, 1956, § 3.118 was § 3.188 and the waiver provisions was appended as a footnote to § 3.188.

the NARTB and ABC,² and from over 300 standard, FM, and television licensees and permittees and other parties concerned with broadcasting. Only three parties, the American Federation of Musicians, Charles W. Balthrope, President of KITE (AM) and KITE-FM, San Antonio, Texas, and licensee of Station KENN, Kennedy, Texas, and Richard B. Blanchard, Jr., of Hollywood, California, express opposition to the proposed amendments or their objective of relaxing present requirements. Most of the parties urge the adoption of the NARTB proposal or its substance; but a number of parties recommend that the language of the proposed amendment be clarified or modified in some respects, as more fully discussed below. A few parties maintain that the present mechanical reproduction rules are adequate but that no harm would ensue from the relaxation of the rules as proposed, provided practical adherence to their requirements can be assured. Many of the parties favoring adoption of the amendment proposed by the NARTB state that while they also favor the adoption of the proposed amendment to the waiver provision (§ 3.118 (6)), the need for the waiver provision would be eliminated by revising the mechanical reproduction rules along the lines proposed by the NARTB.

NARTB COMMENTS

3. In support of the proposed amendment, the NARTB agrees that the proposed amendment should also apply to § 3.588 (noncommercial educational FM) as proposed in the Notice, and urges that the arguments presented in its petition warrant its adoption. In its petition the Association urged that the present rules governing mechanical reproductions are outmoded in the light of the great strides which have been made in the recording, transcription, broadcasting and telecasting fields, as well as the existence of a more sophisticated audience response. While the Association subscribes to the broad principle that the public interest is best served by the elimination of industry practices deliberately calculated to mislead or deceive the public in any way, it urges that the present rules extend a protection neither warranted by the actualities of broadcasting nor in reality desired by the public. NARTB submits that there is little possibility of deceiving the public by deletion of the announcement that a broadcast is accomplished by means of mechanical reproduction, except with respect to those programs in which the element of time is of such special significance that the impression or belief would be created in the mind of the public that the event or program is, in fact, occurring simultaneously with the broadcast. The Association concedes that newscasts, political speeches, panels, forums, news commentators and special events are vested with such public significance and, in general, have gained such widespread listener at-

² ABC also filed on June 1, 1956, a Petition for Expedited Action or Interim Relief which in light of our action here is now moot.

tention as to warrant the safeguard that, if broadcast through means of mechanical reproduction, they should be announced as such. NARTB maintains that no real benefit results from requiring programs in which the element of time and significance is not of special importance to be announced as being mechanically reproduced since under present conditions a mechanical reproduced program is often superior to a live program; the possibilities of deception are minimal; and such announcements serve only to disrupt program continuity and to irritate the public. NARTB submits that the public is more concerned with technical quality and program content than with the method by which the programs are broadcast. While the Association recognizes that under its proposal the public may occasionally believe that a mechanically reproduced program is a live broadcast, it urges the application of a rule of reason and that public interest considerations, inherent in "high program" content call for service to the public free from announcements of the obvious. With respect to delayed programs in which the element of time is of special significance, NARTB contends that broadcasters may be expected to present such programs in a manner and with such announcements as will inform listeners adequately of the circumstances. The Association notes that it approves the ABC proposal for amending paragraph (a) (6) of § 3.118 of the rules but that its own proposal will achieve the results sought by ABC.

4. The majority of the parties supporting the proposed amendment advance arguments similar to those of NARTB. They also urge that the mechanical recordation rules for AM, FM, TV and noncommercial educational FM broadcast stations should be made uniform. They claim that the present rules have become outmoded through technological advances, industry growth and public acceptance and no longer serve any useful purpose where the element of timeliness is entirely immaterial to the listener or viewer; that the value of such programs as news, sports events, weather reports, auction sales of live stock, political speeches, panels, forums, and those of an emergency nature depend upon the time element involved and should be announced; and that the proposed amendment recognizes the necessity of informing the public of a mechanical reproduction when a question of timeliness is involved and contains adequate safeguards to insure that such programs are announced and that deliberate misrepresentation is prohibited. They state that the present rules were adopted to prevent misleading the public as to whether the broadcast was live or recorded at a time when live broadcasting was the standard and mechanical reproduction program material was technically inferior and constituted only a minor part of a station's program structure; that today the need for a distinction between live and recorded programs, except where a question of timeliness is material, no longer exists since recorded programming has reached near perfection, the majority of

transcribed broadcasts are accepted by the public in the same light as "live" presentations, the bulk of a station's programming is recorded, and the public's awareness of programming techniques is such that listeners could only be misled by deliberate action on the part of the broadcaster. It is pointed out that the proposed amendment prohibits such affirmative misrepresentation; that the possibility of deliberate deception is remote since it would not work to a station's advantage to mislead its audience into believing recorded program material is live; that, in any case, the Commission could take appropriate action if any such attempt to mislead might be made; and that the few occasions where such an attempt might be made would be outweighed by the elimination of repetitious announcements which have no affirmative value. It is claimed that with the increased use of recorded programming and the trend to small program blocks in radio, the number of recorded announcements required to be made each day has increased to the point where their effectiveness is lost. It is urged that both the public and the broadcasting industry will be served by the elimination of announcements where the public's knowledge whether the program is recorded does not affect the value of the program or make any difference as a matter of public interest, convenience or necessity; that such announcements serve only to cause repetitious interruptions of program continuity and program imbalance; that they are both an annoyance and a distraction to the listener or viewer and a costly and unnecessary burden on broadcast stations, and that they consume broadcast time which can be used by the station and the public to better advantage.

5. Others supporting the proposed amendments claim that it is inconsistent to relax the present rules to the extent of not requiring mechanical recordation announcements with respect to background music in programs and programs of less than one minute duration—thus indicating that the Commission is not concerned whether the public is aware that such programs or components thereof are live or transcribed—and, on the other hand, to require identification of all other forms of mechanically recorded program material. It is likewise claimed that there appears to be no justifiable reason for exempting a station because of daylight saving time differentials from announcement requirements with respect to network programs received on a delayed basis, except for announcements once or twice a day, and, on the other hand, requiring a neighboring station in standard time to announce as mechanically reproduced each program broadcast on a delayed basis for other reasons. Some parties point out that only the broadcaster is now required to label his material as "transcribed"; that other competitive services, such as Muzak, the juke box, the home phonograph, etc., which the Commission does not regulate, are not hampered by mechanical reproduction identification requirements; that newspapers, wire services, foreign correspondence, etc., frequently delay the release of material

via press and air and that such material is often treated as not having happened until released, and that the delay between creation and release of material by such services does not adversely affect either the public interest nor public acceptance of the material.

6. ABC and several of the parties supporting the objectives of the proposed amendment—the confinement of announcements of mechanically reproduced programs to those where the element of time is of special significance and where the public might otherwise be misled—point out that the proposed form of the amendment can be construed as requiring all mechanically reproduced speeches, news events, news commentators, forums, panel discussions and special event programs to be announced as such regardless of whether the element of time is of special significance. They urge that announcement requirements should not be applied flatly to such programs simply because they fall in one of the listed categories but that the amendment should be clarified so that it can be construed only as requiring announcements when the particular program, because of its contents or its participants, might cause the listening or viewing public to be misled unless an accompanying announcement is made. These parties claim that the element of time is not of special significance in every speech, forum or like program and a recordation announcement should not be required if such is the case. It is urged, for example, that there is no reason to require an announcement in a case where a live newscaster's commentary is supplemented by recorded interviews if the manner of presentation precludes the creation of any impression or belief that the recorded events are occurring simultaneously with the broadcast. It is suggested that the necessary clarification be made by changing the punctuation of the pertinent sentence in the proposed amendment or by deleting all reference to specific categories of programs which must be announced as mechanically recorded. It is urged by those favoring the latter modification that it is preferred, with only a general requirement that all mechanically reproduced programs in which the element of time is of special significance be announced, because of the natural tendency to accept illustrations as all-inclusive.

7. While agreeing that the proposed amendment properly restricts the scope of the mechanical reproduction rules to an area that takes into account current broadcasting realities, NBC suggests that, in order to achieve as much flexibility as is consistent with the public interest, any new mechanical reproduction rules should also exempt programs of one minute or less from announcement requirements in the same manner as they are exempted under the present rules; that mechanically reproduced commercial announcements and other political, public service and promotional announcements, even though they exceed one minute in duration, should be exempted completely from any announcement requirements since there is no reason to require such announcements

In these matters; and that any new mechanical reproduction rules should give broadcasters the same option as is now present in the television rules to make the requisite announcement of a mechanically reproduced program either at the beginning or at the end of the program. NBC points out that the Commission denied a request in 1950 (Public Notice 48056, Report No. 1639, March 20, 1950) proposing that announcement of the use of mechanical reproductions be required before such a program instead of either before or after, as permitted by the TV rules, since it recognized that a choice was desirable in order to maintain structural balance in programming. Southwest Broadcasters, Inc., suggests that identification announcements of mechanical reproduction be required only once for any programs of five minutes or less in conformity with the present AM and FM rules. It is also suggested that even if the element of time is of significance in programs consisting of news, speeches, etc., identification of mechanical reproduction should not be required unless the length of the time delay in the recorded presentation of a live program is of such extent that the public interest would require such identification. Southwest points out that it is frequently expedient for it to record and delay network newscasts approximately 30 minutes; that much of the news content of such programs is hours old at the time of the live release, and that it is not essential to the public interest that a recorded delay in the spoken presentation of such newscasts be identified as recorded since the timeliness of the program is little, if any, more affected than if a live release itself were similarly delayed. A number of parties urge that even if certain categories of programs are required to be announced as mechanically reproduced, network programs which are delayed to accommodate daylight saving time or time zone differences should be exempted entirely from any such requirement. Rumford Broadcasting Company suggests that since the vast majority of programs on radio today are entirely transcribed or contain recorded and transcribed music, it would be more realistic for broadcast stations to make announcement of the fact of a "live" program as opposed to the present rule requiring identification of recorded programs.

8. If the NARTB proposal is not adopted, ABC and many other parties who support the NARTB proposal urge that as a minimum, paragraph (a) (6) of § 3.118, should be amended, as proposed, to take care of time zone as well as daylight saving differences across the country by permitting network programs to be delayed up to four hours with only a single daily announcement that such programs are transcribed at an earlier hour for later presentation. They recommend that the amendment also be made applicable to FM, TV and non-commercial educational FM stations also. Some parties suggest that the present and proposed requirement in the waiver that an announcement be made once each day to the effect that all or some network programs are delayed broad-

casts by means of transcription where daylight saving time or time zone differences are involved serves no useful purpose and should be deleted. It is argued that years of experience with the daylight saving time waiver have demonstrated that the failure to make separate announcement for programs transcribed and broadcast at a later time because of daylight saving time has worked no injury on the public, stations or the networks and that the public has benefited from the elimination of repetitious announcements and the interruption of programs. It is contended that if the present waiver provision with respect to daylight saving differentials is sound, a similar waiver is equally appropriate to accommodate time zone differences; that the public is as completely aware of the time zone differentials and their effect on radio and TV programs as they are of daylight saving time changes; that the effect upon broadcasting of time zone variances pre-dates the adoption of daylight saving time in some areas and is therefore an even more familiar and accepted technique of American broadcasting; that advertising promotion, and listening habits have educated the public in the various time zones to the fact that leading network shows originating in New York are received via their local stations one, two or three hours later; that the public demands that its local stations carry these network shows on a delayed basis so that the programs are available locally, in comparable leisure time, and that repeated announcements that the program is transcribed for delayed broadcast is of no value and is boring to the average listener or viewer. It is also urged that the provision in the proposed waiver amendment—that the Commission be advised of any network organization or individual station taking advantage of the waiver—be eliminated, since public demand and past practice indicate that all broadcasting stations will continue the practice of delaying network programs to adjust for the time zone. It is claimed, therefore, that there is no necessity for stations taking advantage of the waiver to advise the Commission, and that such a requirement would be unnecessarily burdensome to both the industry and the Commission.

9. In opposition to the proposed amendment, Charles W. Balthrope, San Antonio, Texas, states that the present requirements of the mechanical reproduction rules are adequate and not excessive; that they have served the broadcasting industry well for many years; that no reason now exists for their change; and that their relaxation might tend to dissipate the intent of these rules as far as proper identification to the listener is concerned. Richard Blanchard Jr., of Hollywood, California, contends that the present announcement requirements of the mechanical reproduction rules are too lax; that stronger rules should be formulated to eliminate all doubt, in all types of shows including time-delayed programs, as to whether a program is live or mechanically reproduced. He urges, in particular, that the television rules be amended to require an announcement both at the beginning and

end of a program, as now required by the AM and FM mechanical reproduction rules. He submits that the public is interested in knowing when a program is live or recorded and not in the networks' time problem; that the fact that dramatic and other types of shows are live is a major factor in the public's enjoyment of them, and that too much misleading data concerning mechanically reproduced programs is now broadcast deliberately to give the impression that such programs are live. While of the view that no harm would result from adoption of the proposed NARTB proposal, three broadcasters charge that the major radio networks give only lip service to the identification rules for mechanically reproduced programs by hiding the announcement under loud music, applause, or the like, or by making a statement such as "This is John Doe transcribing from New York"; that this approach is not justified by the facts of public acceptance but is probably done to suit the commercial sensitivities of the advertising agencies, and that it has virtually rendered the public insensible to just what constitutes a mechanical reproduction. These broadcasters state that if the comments received herein indicate a question of candor on the part of licensees with respect to the possible practical—though not technical—violation of the rule, as has become the habit on some network programs, harm might result from adoption of either proposed amendment. However, they state that if the Commission takes strong action to require practical adherence to the rule as finally adopted, the question of adherence will be moot, and the question of concern about the adoption of these amendments will be resolved.

10. The American Federation of Musicians, representing some 252,000 professional musicians in the United States and Canada, opposes the NARTB proposal and any relaxation of the mechanical reproduction rules for the reason that it would augment the practice of presenting mechanically reproduced music as if it were being produced live. The Federation states that it recognizes the great advances made in the art of mechanical reproduction, but it urges that where the techniques of mechanical reproduction are used indiscriminately to destroy the livelihood of musical artists whose abilities are exploited by these techniques, serious problems are raised which warrant the Commission to require all mechanically reproduced musical programs to be announced. It contends that basic to the problem is the impact upon those musicians who create the music and whose livelihood depends upon the opportunity to create more and more live music; that musicians have been displaced from their chosen profession by the millions of records played in juke-boxes, broadcasting stations, "wired" musical programs and the like so that today less than 75,000 musicians out of a total of more than 252,000 earn the bulk of their living out of music; and that unlike other displaced workers they have no chance of being absorbed in other musical channels. It urges that the future of music

in America, as well as the livelihood of musicians, is threatened by the continued advances of mechanized music and that this fact must be forefront in assessing the instant proposal. It urges that an announcement of a recorded musical program serves a necessary function in the musical world by preventing the public from being deceived that it is hearing live music at the time of performance and as a constant reminder that live musicians are not being used. It contends that it is better to irritate a listener to the point of demanding live music than to lull him into any easy acceptance of canned music and all the resulting economic and cultural dislocations. The Federation alleges that to abandon all requirements of revealing the mechanized nature of musical programs will serve to help only the entrepreneurs of musical automation and will cause unemployment for musicians and lessen the opportunity for developing and maintaining real musical culture in America. It urges that the present problem is more than one of encouraging the utilization of live talent by broadcasting stations, which the Commission has recognized as desirable, but that it is one also of preserving and sustaining the talent which we now have; that radio and television stations have "a positive responsibility" not to utilize mechanized music in such a way as to discourage live talent and to blind the public to the human displacements that inevitably result, and that denial of the proposed amendment will further the lessening of the evils of mechanized music.

11. The mechanical records rules were promulgated to protect the listening and viewing public from deception. In former years, mechanically reproduced programs were markedly inferior to live programs, and rules requiring the identification of nearly all mechanical reproductions were necessary to protect the broadcast audience from being led to believe that programs broadcast by mechanical reproduction consist of live talent. As the quality of mechanical reproduction has improved and its use by the broadcast services has increased, we have relaxed or modified the mechanical records rules whenever we found that certain identification requirements for mechanical records were unnecessary to keep the listener or viewer reasonably apprised of whether a program was live or mechanically reproduced and when they served only to burden broadcasters unnecessarily or to cause wearisome repetition of announcements which the public for the most part would recognize as such, e. g., programs of one minute or less and programs delayed for one hour because of the daylight saving time differential.

12. The two proposals before the Commission in this proceeding are similar to the proposals for amendment of the AM mechanical recordation rules which were before us in 1946 in Docket No. 7611. The arguments advanced in support of the instant proposals are likewise similar to those which we considered at that time. At the conclusion of the 1946 proceeding we amended the AM mechanical reproduction rule only to the extent of

permitting the broadcast of transcribed or recorded material of one minute or less without identification. We explained in the Public Notice issued December 6, 1946, that this amendment was made because the requirement of an announcement to identify transcribed or recorded programs of one minute or less "tended to require more interruptions for explanatory announcements than was necessary to avoid deception of the public." Since that time the AM and FM mechanical reproduction rules have not been changed, except for the addition of the footnote to the AM rule in 1947, as amended in 1948, waiving identification requirements with respect to network programs which are transcribed and broadcast one hour later because of the time differential resulting from the adoption of Daylight Saving Time. The Commission was of the view that repeated identification of such delayed broadcasts was burdensome to broadcasters and the public and unnecessary if an appropriate announcement was made at least once daily.

13. The present TV mechanical recordation rule was last amended on November 28, 1945. Unlike the AM and FM rules, which require identifying announcements both before and after programs of a longer duration than 5 minutes and at each 30 minute interval also if longer than 30 minutes, the pertinent television rule requires such an announcement either at the beginning or end of a recorded program regardless of its length, including those one minute or less, which are excepted under the AM and FM rules. In 1950 we denied a request to amend the TV rule to require an identifying announcement at the beginning of a mechanical reproduced program (Public Notice 48056, Rept. No. 1639, March 20, 1950). We pointed out in our decision that, in adopting the television rule, the time when the identifying announcement was to be made was left to the discretion of the licensee so long as the viewer was not left with the impression that a mechanical reproduction consisted of live talent. We recognized that television licensees might prefer to maintain structural balance in their programming by announcing the use of mechanical reproductions at the end of a program instead of before, and we held that no facts were presented which warranted requiring an identifying announcement before a television mechanical recordation.

14. We have carefully considered the many comments filed in this proceeding, and we conclude that they point up the need for making the mechanical records rules for the AM, FM and TV broadcast services uniform and the desirability of additional relaxation in identification requirements along the lines of the NARTB and ABC proposals. We are of the view that, in the light of the present broadcast situation, the present identification requirements are too stringent, and to the extent that they are, impose a needless burden on broadcasters and detract from the public's enjoyment of programs. We believe that the general protection afforded by the rules against any affirmative attempt by a licensee to create the impression that any broadcast by me-

chanical reproduction consists of live talent is adequate to protect the public from harmful deception as to the nature of most programs and that specific requirements as to identification of recorded programs and material at the time of broadcast are needed today only where the element of time is of special significance in such programs. Since the possibility of the public being misled and the harm that could ensue therefrom is greater with respect to programs in which time is a significant element, the public interest, in our view, still requires that recorded programs in which time is a significant factor be identified and that the question of their identification not be left to the discretion of the licensee. However, we agree with those parties who urge that a general requirement that mechanically reproduced programs in which time is significant be identified is sufficient, and that no specific requirements should be adopted to require identification of all programs falling into the categories (speeches, news events, news commentators, forums, panel discussions, etc.) suggested by the NARTB and other parties. While the element of time is often significant in programs of these types, it is not always the case, and we find no need for requiring the identification of recorded or transcribed programs where the time factor is unimportant simply because they are of a certain type. In our view, station licensees are capable of bearing the responsibility of determining whether mechanically reproduced material or programs falling within the suggested categories require identification because of the time element and the possibility of harmful deception. Therefore, the amendments we are now adopting require that all mechanically reproduced programs in which time is a significant factor, except for the few exceptions noted below, must be identified, but make no requirement that all programs or material of the types enumerated therein must be identified if broadcast by mechanical recordation. The categories of programs set forth in the amendment have been included solely for the purpose of illustrating some of the types of programs in which an identifying announcement may be required; the list is not intended to be all-inclusive, and the question of the identification of programs or material falling within these categories is left to the discretion of the licensee.

15. We are also of the view that only one announcement is necessary to inform the listener or viewer when a mechanical reproduction is being used, and we believe that the question of whether the announcement should be made before or after the use of a mechanical reproduction should also be left to the discretion of the licensee. The television mechanical reproduction rules have permitted licensees to operate under similar requirements for a number of years, and we believe that the NARTB proposal which would require an announcement, both before and after a mechanically reproduced program where the time element is significant, causes more hardship on licensees and interruption of program continuity than is warranted at the

present time. We are, therefore, amending the mechanical reproduction rules for all the services to require only one identifying announcement for recorded programs covered by the rules and to make the use of such an announcement at the beginning or end of a mechanical reproduction or program optional with the licensee.

16. Inasmuch as experience in the application of the AM and FM mechanical recordation rules—which for a number of years have excepted recorded or transcribed programs of one minute or less from all identification requirements—has demonstrated that identification of programs or material of this length is unnecessary to prevent deception, we have retained this exception in the new mechanical recordation requirements for AM and FM and made it applicable to the TV mechanical recordation requirements as well. The only other exceptions to the new requirements for mechanical recordations which we believe to be warranted cover network programs transcribed and rebroadcast one hour later because of the time differential resulting from the adoption of daylight saving time in some areas and network programs delayed as much as three hours because of the time zone differences between the place where the programs originate and where they are rebroadcast. Standard broadcast stations have been operating since 1947 under a provision in the AM mechanical recordation rules waiving identification requirements to accommodate daylight saving time differences and requiring in lieu thereof only a single daily announcement as to all delayed network programs broadcast by means of transcription for this reason. We believe that the daily announcement has proved to be adequate to identify such programs under the circumstances; and we have therefore embodied the waiver provision in all the mechanical recordation rules and we have eliminated the requirement that the Commission be advised of any network or station taking advantage of the waiver. Although consideration was given to the suggestion that the requirement of a daily announcement with respect to programs delayed because of daylight saving time should be deleted entirely or should be required only where the time element is significant, we are convinced that the daily announcement serves a useful purpose and that less confusion and less opportunity for misunderstanding will arise if it is made applicable to all programs delayed because of daylight saving time, particularly when it imposes no great burden on broadcasters. We also believe that there is merit to the proposal of ABC to extend the daylight saving time waiver to accommodate time zone differences, and the new mechanical recordation requirements contain a similar waiver provision with respect to such broadcasts. In light of our experience with the daylight saving time waiver and the longstanding practice of broadcasting stations to delay network programs to adjust for the time zone in order to broadcast them locally at appropriate times, we believe that a requirement that

each such program be separately identified is no longer necessary and causes needless program interruption and that a daily announcement will suffice to identify all such delayed programs.

17. Authority for the adoption of the amendments herein is contained in sections 4 (i), 303 (f) and 303 (r) of the Communications Act of 1934, as amended.

18. In view of the foregoing: *It is ordered*, That effective November 7, 1956, Part 3 of the rules and regulations is amended as set forth below.

(Sec. 4, 48 Stat. 1086, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Adopted: October 3, 1956.

Released: October 8, 1956.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

1. Section 3.118 is amended to read as follows:

§ 3.118 *Mechanical reproductions.* (a) No mechanically reproduced program consisting of a speech, news event, news commentator, forum, panel discussion, or special event in which the element of time is of special significance, or any other program in which the element of time is of special significance and presentation of which would create, either intentionally or otherwise, the impression or belief on the part of the listening audience that the event or program being broadcast is in fact occurring simultaneously with the broadcast, shall be broadcast without an appropriate announcement being made either at the beginning or end of such reproduction or at the beginning or end of the program in which such reproduction is used that it is a mechanical reproduction or a mechanically reproduced program: *Provided, however*, That each such program of one minute or less need not be announced as such.

(b) The exact form of identifying announcement is not prescribed, but the language shall be clear and in terms commonly used and understood. Any other program mechanically reproduced or series of mechanical reproductions, including a mechanical reproduction used for background music, sound effects, station identification, program identification (theme music of short duration) or identification of sponsorship of the program proper, need not be announced as provided in paragraph (a) of this section, but the licensee shall not attempt affirmatively to create the impression that any program being broadcast by mechanical reproduction consists of live talent.

(c) The requirements of paragraph (a) of this section are waived with respect to network programs, transcribed and rebroadcast at a later hour because of the time zone differentials between the place where the program originates and where it is rebroadcast, this waiver being applicable whether the off-the-line recording is made by the network itself at one of its key stations or by an individual station, but only when the off-the-

line recording is for broadcast at an hour not exceeding the time zone differential between the place where the program originates and where it is rebroadcast. Each station which broadcasts network programs at a later hour in accordance with this waiver shall make an appropriate announcement at least once each day between the hours of 10:00 a. m. and 10:00 p. m., stating that some or all of the network programs which are broadcast by that station are delayed broadcasts by means of transcription. This waiver provision also applies during the annual periods in which daylight saving time will be effective with respect to network programs transcribed and rebroadcast one hour later because of the time differential resulting from the adoption of daylight saving time in some areas.

2. Section 3.288 is amended to read as follows:

§ 3.288 *Mechanical reproductions.* (a) No mechanically reproduced program consisting of a speech, news event, news commentator, forum, panel discussion, or special event in which the element of time is of special significance, or any other program in which the element of time is of special significance and presentation of which would create, either intentionally or otherwise, the impression or belief on the part of the listening audience that the event or program being broadcast is in fact occurring simultaneously with the broadcast, shall be broadcast without an appropriate announcement being made either at the beginning or end of such reproduction or at the beginning or end of the program in which such reproduction is used that it is a mechanical reproduction or a mechanically reproduced program: *Provided, however*, That each such program of one minute or less need not be announced as such.

(b) The exact form of identifying announcement is not prescribed, but the language shall be clear and in terms commonly used and understood. Any other program mechanically reproduced or series of mechanical reproductions, including a mechanical reproduction used for background music, sound effects, station identification, program identification (theme music of short duration) or identification of sponsorship of the program proper, need not be announced as provided in paragraph (a) of this section, but the licensee shall not attempt affirmatively to create the impression that any program being broadcast by mechanical reproduction consists of live talent.

(c) The requirements of paragraph (a) of this section are waived with respect to network programs, transcribed and rebroadcast at a later hour because of the time zone differential between the place where the program originates and where it is rebroadcast, this waiver being applicable whether the off-the-line recording is made by the network itself at one of its key stations or by an individual station, but only when the off-the-line recording is for broadcast at an hour not exceeding the time zone differential between the place where the program originates and where it is rebroadcast. Each station which broadcasts network pro-

grams at a later hour in accordance with this waiver shall make an appropriate announcement at least once each day between the hours of 10:00 a. m., and 10:00 p. m., stating that some or all of the network programs which are broadcast by that station are delayed broadcasts by means of transcription. This waiver provision also applies during the annual periods in which daylight saving time will be effective with respect to network programs transcribed and rebroadcast one hour later because of the time differential resulting from the adoption of daylight saving time in some areas.

3. Section 3.588 is amended to read as follows:

§ 3.588 *Mechanical reproductions.* (a) No mechanically reproduced program consisting of a speech, news event, news commentator, forum, panel discussion, or special event in which the element of time is of special significance, or any other program in which the element of time is of special significance and presentation of which would create, either intentionally or otherwise, the impression or belief on the part of the listening audience that the event or program being broadcast is in fact occurring simultaneously with the broadcast, shall be broadcast without an appropriate announcement being made either at the beginning or end of such reproduction or at the beginning or end of the program in which such reproduction is used that it is a mechanical reproduction or a mechanically reproduced program: *Provided, however,* That each such program of one minute or less need not be announced as such.

(b) The exact form of identifying announcement is not prescribed, but the language shall be clear and in terms commonly used and understood. Any other program mechanically reproduced or series of mechanical reproductions, including a mechanical reproduction used for background music, sound effects, station identification, program identification (theme music of short duration) or identification of sponsorship of the program proper, need not be announced as provided in paragraph (a) of this section, but the licensee shall not attempt affirmatively to create the impression that any program being broadcast by mechanical reproduction consists of live talent.

(c) The requirements of paragraph (a) of this section are waived with respect to network programs, transcribed and rebroadcast at a later hour because of the time zone differential between the place where the program originates and where it is rebroadcast, this waiver being applicable whether the off-the-line recording is made by the network itself at one of its key stations or by an individual station, but only when the off-the-line recording is for broadcast at an hour not exceeding the time zone differential between the place where the program originates and where it is rebroadcast. Each station which broadcasts network programs at a later hour in accordance with this waiver shall make an appropriate announcement at least once each day between the hours of 10:00 a. m.,

and 10:00 p. m., stating that some or all of the network programs which are broadcast by that station are delayed broadcasts by means of transcription. This waiver provision also applies during the annual periods in which daylight saving time will be effective with respect to network programs transcribed and rebroadcast one hour later because of the time differential resulting from the adoption of daylight saving time in some areas.

4. Section 3.653 is amended to read as follows:

§ 3.653 *Mechanical reproductions.*

(a) No mechanically reproduced program, whether visual or aural, consisting of a speech, news event, news commentator, forum, panel discussion, or special event in which the element of time is of special significance, or any other program in which the element of time is of special significance and presentation of which would create, either intentionally or otherwise, the impression or belief on the part of the listening audience that the event or program being broadcast is in fact occurring simultaneously with the broadcast, shall be broadcast without an appropriate announcement being made either at the beginning or end of such reproduction or at the beginning or end of the program in which such reproduction is used that it is a mechanical reproduction or a mechanically reproduced program: *Provided, however,* That each such program of one minute or less need not be announced as such.

(b) The exact form of identifying announcement is not prescribed, but the language shall be clear and in terms commonly used and understood. Any other program mechanically reproduced or series of mechanical reproductions, including a mechanical reproduction used for background music, sound effects, station identification, program identification (theme music of short duration) or identification of sponsorship of the program proper, need not be announced as provided in paragraph (a) of this section, but the licensee shall not attempt affirmatively to create the impression that any program being broadcast by mechanical reproduction consists of live talent.

(c) The requirements of paragraph (a) of this section are waived with respect to network programs, transcribed and rebroadcast at a later hour because of the time zone differential between the place where the program originates and where it is rebroadcast, this waiver being applicable whether the off-the-line recording is made by the network itself at one of its key stations or by an individual station, but only when the off-the-line recording is for broadcast at an hour not exceeding the time zone differential between the place where the program originates and where it is rebroadcast. Each station which broadcasts network programs at a later hour in accordance with this waiver shall make an appropriate announcement at least once each day between the hours of 10:00 a. m., and 10:00 p. m., stating that some or all of the network programs which are broadcast by that station are delayed broad-

casts by means of transcription. This waiver provision also applies during the annual periods in which daylight saving time will be effective with respect to network programs transcribed and rebroadcast one hour later because of the time differential resulting from the adoption of daylight saving time in some areas.

[F. R. Doc. 56-8179; Filed, Oct. 10, 1956; 8:48 a. m.]

[FCC 56-962]

[Rules Amdt. 3-32]

PART 3—RADIO BROADCAST SERVICES

AUXILIARY TRANSMITTERS

In the matter of amendment of § 3.63, Commission rules and regulations relating to auxiliary transmitters.

1. The Commission has before it for consideration the use of standard broadcast auxiliary transmitters in CONELRAD. The present rule (§ 3.63) is silent on such use. However, a number of standard broadcast stations employ their auxiliary transmitters for CONELRAD. Therefore, the rule is being amended to include a provision for the use of auxiliary transmitters for CONELRAD purposes.

2. The present auxiliary transmitter rule provides that auxiliary transmitters shall be tested on the licensed frequency of the station. However, stations using their auxiliary transmitters for CONELRAD purposes have them adjusted to a CONELRAD frequency; and we do not believe that licensees should be required to switch the transmitters back to the licensed frequency each time they are tested. We are therefore amending the rule to permit tests to be made while the transmitters are adjusted to the CONELRAD frequency; provided that the output of the auxiliary transmitter is connected to a dummy load in order to prevent interference to other stations.

3. The present auxiliary transmitter rule also places a limit on the length of time that an auxiliary transmitter may be used when the main transmitter is inoperative due to maintenance or modification but does not place any time limit on the use of the auxiliary transmitter because of failure of the main transmitter. In order to be consistent it is proposed to delete the time limit in the former case.

4. The amendment adopted herein merely affords broadcast licensees an alternative method for testing auxiliary transmitters and removes an inconsistency from the present rule. We find in accordance with section 4 (a) of the Administrative Procedure Act, that notice and public procedure thereon in this matter would be impractical, unnecessary, or contrary to the public interest.

5. In view of the above and pursuant to authority contained in sections 4 (i), 301, 303 (e), (f) and (r) of the Communications Act of 1934, as amended, § 3.63 of the Commission's rules and regulations is amended effective November 7, 1956, as follows:

Paragraphs (c) and (d) of § 3.63 are amended to read as follows:

(c) The auxiliary transmitter shall be maintained so that it may be placed in operation at any time for any one of the following purposes:

(1) The transmission of the regular programs upon the failure of the main transmitter.

(2) The transmission of the regular programs during maintenance or modification work on the main transmitter necessitating discontinuance of its operation.

(3) CONELRAD tests, drills or operation, provided the auxiliary transmitter is used in connection with a National Defense Emergency Authorization.

(4) Upon request of a duly authorized representative of the Commission.

(d) The auxiliary transmitter shall be tested at least once each week to determine that it is in proper operating condition and that it is adjusted to the licensed or CONELRAD frequency: *Provided, however,* That the test in any week may be omitted if the auxiliary transmitter has been operated during the week pursuant to paragraph (c) of this section and such operation was satisfactory. Tests on the licensed frequency shall be conducted only between 12 midnight and 9 a. m., local standard time. Tests on a CONELRAD frequency, when such tests are not part of an authorized CONELRAD test, shall be made only when the transmitter output is connected to a dummy load. A record shall be kept of the time and result of each test. Such records shall be retained for a period of two years.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303)

Adopted: October 3, 1956.

Released: October 8, 1956.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 56-8180; Filed, Oct. 10, 1956;
8:48 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

NOTICE OF FILING OF PETITION FOR ESTABLISHMENT OF TOLERANCE FOR RESIDUES OF DIURON (3-(3,4-DICHLOROPHENYL)-1,1-DIMETHYLUREA)

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U. S. C. 346a (d) (1)), the following notice is issued:

A petition has been filed by E. I. du Pont de Nemours and Company, Wilmington 98, Delaware, proposing the establishment of a tolerance of 1 part per million for residues of diuron (3-(3,4-dichlorophenyl)-1,1-dimethylurea) in or on grapes.

The analytical method proposed in the petition for determining residues of diuron is the method published in the FEDERAL REGISTER of July 8, 1955 (20 F. R. 4871).

Dated: October 5, 1956.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 56-8175; Filed, Oct. 10, 1956;
8:47 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 244]

[Economic Regs. Draft Release 84]

FILING OF REPORTS BY AIR FREIGHT FORWARDERS, INTERNATIONAL AIR FREIGHT FORWARDERS AND COOPERATIVE SHIPPERS ASSOCIATIONS

NOTICE OF PROPOSED RULE MAKING

OCTOBER 8, 1956.

Notice is hereby given that the Civil Aeronautics Board has under consideration a proposed revision of Part 244 of the Economic Regulations (14 CFR Part

244). The proposed revision makes a number of changes in present Part 244 and also provides appropriate reporting requirements for the newly authorized class of indirect air carriers designated as "Cooperative Shippers Associations".

The principal features of the revision are explained below in the explanatory statement.

The proposed revised Part 244 is set forth below. This regulation is proposed under authority of sections 205 (a), and 407 of the Civil Aeronautics Act of 1938, as amended (52 Stat. 984, 1000; 49 U. S. C. 425, 487).

Interested persons may participate in the proposed rule making through submission of written data, views or arguments pertaining thereto in quadruplicate, addressed to the Secretary, Civil Aeronautics Board, Washington 25, D. C. All relevant matter in communications received on or before November 9, 1956, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available on or after November 14, 1956, for examination by interested persons in the Docket Section of the Board, Room 5412, Department of Commerce Building, Washington, D. C.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

Explanatory statement. Experience has demonstrated that the presently effective provisions of Part 244 fail to provide sufficiently uniform and detailed data concerning the operations of air freight forwarders and international air freight forwarders. Consequently, the proposed amendment prescribes a standard reporting form and also requires a separation of revenues and expenses between forwarder and non-forwarder activities. In addition, the requirements of this part have been liberalized in several respects. Thus, forwarders would be relieved from the burden of supplying tonnage volumes respectively consigned for shipment over the facilities of different classes of direct air carriers and of surface carriers but would be required to

furnish only the aggregate total tonnage of air and surface carriage. Likewise, data relating to station personnel engaged in selling, operating, and administrative work will not be required under the proposed amendment. Furthermore, the proposed reports for air freight forwarders would be submitted semi-annually instead of quarterly.

The proposed rule also prescribes a standard reporting form for cooperative shippers associations. However, such associations would be subject to less detailed and extensive reporting requirements than forwarders. Such differential treatment appears to be proper because only minimal regulatory controls have been imposed upon these associations on the theory that since they serve only their own members they will be self-policing entities. Such associations would file an annual report containing data showing the relationship between their officers and directors and air freight forwarders or direct air carriers and their total operating revenues (with a separation of income derived from members and all other sources).

Both the forwarders and the associations have been required to file annual reports, pursuant to section 407 (b) of the act, disclosing the identities of their stockholders or members holding more than 5 percent of the aggregate capital stock or capital of a carrier and a description of the stock, or other ownership interests, held by the air carrier in other business enterprises. Such information has long been incorporated in the Board's reporting requirements for direct air carriers (Part 241 and Part 242 of the Economic Regulations) and appears to be equally pertinent with respect to the operations of these indirect air carriers.

For the information of any interested persons who do not receive the proposed forms in regular distribution, copies thereof may be obtained by addressing a request in writing to the Civil Aeronautics Board, Publications Section, Department of Commerce Building, Washington 25, D. C.

It is proposed to revise Part 244 of the Economic Regulations (14 CFR Part 244) to read as follows:

§ 244.1 *Definitions.* For the purposes of this part:

(a) "Air freight forwarder" means any air carrier classified and defined as such in Part 296 of this chapter.

(b) "International air freight forwarder" means any air carrier classified and defined as such in Part 297 of this chapter.

(c) "Cooperative shippers association" means any air carrier classified and defined as such in Part 296 or Part 297 of this chapter.

§ 244.2 *Financial and operating reports by air freight forwarders and international air freight forwarders.* (a) For the semi-annual period beginning January 1, 1957 and terminating on June 30, 1957, and thereafter for each succeeding semi-annual period, each air freight forwarder and international air freight forwarder shall file CAB Form 244,¹ entitled "Report of Financial and Operating Statistics for Air Freight Forwarders and International Air Freight Forwarders" in accordance with the instructions accompanying such form and the requirements of this section. Schedules D and E of CAB Form 244 shall be filed annually. All air freight forwarders shall file such reports irrespective of whether they are actually engaged in air freight forwarding operations. Such reports shall be filed within 45 days after the termination of each such reporting period and shall be certified to be correct in the form and manner prescribed by a responsible officer of the reporting air freight forwarder.

(b) Each such report shall contain the following data:

(1) Balance sheet, prepared in accordance with prescribed practices.

(2) Profit and loss statement:

(i) With a separation of revenue items so as to indicate respective earnings from forwarder and non-forwarder activities (including a further breakdown of forwarder revenues).

(ii) With a separation of expense items so as to indicate the breakdown of total expenses between those respectively incurred in forwarder activities and in non-forwarder activities (including a further segregation of both classes of expense between direct and allocated overhead items).

(3) Statistical data:

(i) Number of shipments received from shippers for carriage by air.

(ii) Number of consignments to carriers by air.

(iii) Number of tons consigned for shipment by:

Air carriers.

Surface carriers (rail, motor, other than pick-up and delivery, or water).

(4) Disclosure of identities of stockholders or members holding more than 5 percent of entire capital stock or capital of such air carrier, names of all beneficial owners and descriptions of stock and other ownership interests held

by the air carrier in other business entities.

§ 244.3 *Insurance statements by air freight forwarders and international air freight forwarders.* Each air freight forwarder and international air freight forwarder shall submit the statements required by this section as an attachment to its CAB Form 244. During any reporting period when such air carrier has certificates of insurance on file with the Board, pursuant to the provisions of Part 296 or Part 297 of this chapter, it shall either certify that there have been no changes in its insurance coverage during the semi-annual period covered by such report or explain, in detail, every such change. During any period when such an air carrier does not have certificates of insurance on file with the Board, it shall submit a statement of all outstanding cargo and public liability insurance in effect or surety bonds with regard to its operations pursuant to both Part 296 and Part 297 of this chapter. Such statement shall identify the companies issuing the policies or bonds, the amounts thereof and a brief statement as to their coverage.

§ 244.4 *Financial and operating reports by cooperative shippers associations.* (a) For the annual period beginning January 1, 1957, and terminating on December 31, 1957, and thereafter for each consecutive annual period, each cooperative shippers association shall file, in duplicate, copies of CAB Form ----¹ entitled "Report of Cooperative Shippers Associations" in accordance with the instructions accompanying such form and the requirements of this section. All cooperative shippers associations shall file such reports irrespective of whether they are actively engaged indirectly in the air transportation of property. Such reports shall be filed within 45 days after the termination of each prescribed reporting period and shall be certified to be correct in the form and manner prescribed, by a responsible officer of the reporting cooperative shippers association.

(b) Each such report shall contain the following data:

(1) Statement of offices, or stockholding in excess of 5 percent of the entire capital stock or capital, held in an air freight forwarder or direct air carrier by any of the general officers or directors of the cooperative shippers association.

(2) Statement of operating revenues, with a separation of gross income between earnings from charges to members and from all other sources.

(3) Disclosure of identities of stockholders or members holding more than 5 percent of entire capital stock or capital of such air carrier, names of all beneficial owners and descriptions of stock and other ownership interests held by the air carrier in other business entities.

[F. R. Doc. 56-8190; Filed, Oct. 10, 1956; 8:50 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 7, 8]

[Docket No. 11844; FCC 56-970]

STATIONS ON LAND AND SHIPBOARD IN MARITIME SERVICES

SHIP-SHORE TELEPHONY TO SERVE SAFETY AND OPERATIONAL COMMUNICATION NEEDS OF PLEASURE BOATS ON INTERIOR WATERS

In the matter of amendment of Parts 7 and 8 of the Commission's rules to provide for public ship-shore telephony on 2638 kc to serve the safety and operational communication needs primarily of pleasure boats on interior waters.

1. From time to time, applications or inquiries are received regarding the desire to obtain station authorizations for ship-shore telephony to fulfill a stated need therefor primarily for the safety of pleasure boats on inland lakes (other than the Great Lakes) and similar bodies of water in the interior of the continental United States. In general, there is no existing service of this kind except in those areas within the effective communication range of public coast stations along the seaboard, on the Great Lakes, on the Mississippi River system, on parts of the Columbia River, on Lake Mead, Nevada, and on Lakes Dallas and Texhoma in Texas. In terms of definitions set forth in § 8.6 (a) and (m) of the Commission's rules, it appears that this service is required primarily for "safety communication" and secondarily for "operational communication."

2. Under existing rules, two pairs of frequencies (two duplex circuits) above 156 Mc (VHF) are assignable for public ship-shore telephony without excluding any location or area within the continental United States. On most interior waters, these frequencies should provide a satisfactory service even though in some instances more than one shore station may be required in conjunction with land point-to-point circuits (wire, or radio above 70 Mc) to cover all of the area involved. With respect to some interior waters, however, it seems apparent that the use of VHF channels exclusively will not, from a practical (economic) point of view, serve this purpose. These refer to certain inland lakes which have a very irregular shore line configuration and are surrounded by sparsely populated hilly or mountainous terrain. Under these conditions, it is recognized that the applicants might be in a position to show affirmatively that the use of a frequency in the regional maritime band 2000 kc-3000 kc is necessary to permit reasonably economic establishment, operation, and maintenance of this class of service.

3. The principal problem relative to appropriate rule making to support the filing of such applications for the necessary station authorizations is the selection of a working frequency in the 2000 kc-3000 kc band which would be assignable generally throughout the interior of the United States without giving rise to

¹ Filed as part of the original document.

interference conflicts with existing assignments adjudged to have priority. A recent survey of the situation by the Commission's staff would seem to support the opinion that no "new" frequency for use in this way can be provided for the maritime mobile service. Neither does it appear possible to utilize on a geographic distribution basis any group of frequencies already assigned to existing coast stations without creating new interference problems which would be difficult to resolve.

4. However, certain telephone channels in the band 2000-3000 kc are available under existing rules for ship-to-ship communication without geographic restriction throughout the interior of the country. These are 2638 kc and 2738 kc; their intership use is limited primarily to safety communication and secondarily to operational and business communication. These channels are intensively utilized along the seacoast and on the Mississippi River system with a consequent high level of mutual interference during hours of darkness. While no action should be taken which would further increase the present congestion, it would appear that the conservative use of one of these channels on interior waters, at least 100 miles from the major waterways, for operational ship-shore communication during daylight hours only, would not cause any significant increase in the existing congestion and interference. Additional and occasional safety communication at all hours (whenever 2182 kc could not be used) should not be a troublesome factor of any significance. On the other hand, such use would apparently satisfy the expressed minimum communication need of pleasure craft on certain inland lakes where VHF operation only may be economically infeasible.

5. The proposed amendments to Parts 7 and 8 of the rules set forth below would make the frequency 2638 kc assignable to public coast stations and useable by public ship stations for the desired service with appropriate geographic and operating limitations to avoid or minimize interference, provided the shore (coast) station applicant in each case makes an affirmative showing that the use of VHF facilities exclusively would not be practical for reasons other than the absence of VHF ship or shore station equipment, that there is a need for the station to provide safety and operational communication not available from any other station (existing or authorized to be established), and that the proposed station would meet this need when operated in accordance with the applicable rules. Additionally, when filing for renewal of coast station license, the licensee would be required to show (on the basis of operation during the preceding license term) that supplemental VHF facilities, if used for all short-distance communication during the next license period, would not substantially decrease use of 2638 kc or to file, simultaneously with the application for renewal, an application for authority to install and operate supplemental VHF shore station equipment. Ship station licensees desiring to utilize 2638 kc for communication with such

coast stations in accordance with applicable rules would, in reference to existing rule §§ 8.22 and 8.301 (a) (1), be required to make specific written request for this authority in their related license application together with identification therein of the respective coast station(s). These licensees would be apprised of the duly authorized coast stations through a public notice issued by the Commission and a new Appendix to Part 8 of the Commission's rules, each to be revised from time to time as additional coast stations are licensed in accordance with the proposed rule amendments for operation on 2638 kc.

6. It should be understood that each coast station which may be licensed to operate on 2638 kc under the proposed rules would be subject to all applicable rules in Part 7 pertaining to the installation and operation of public coast stations using telephony including such basic rules as §§ 7.103 (b), 7.104 (b) (1), 7.106, 7.108, 7.116, 7.176, 7.178, 7.179, 7.180, 7.186 (d), 7.189 (c), 7.305 (a), 7.313 and 7.314. Under existing rule §§ 7.185 and 7.312 which are not herein proposed to be amended, public coast stations licensed to transmit on 2638 kc would be permitted to transmit, on that frequency, weather information of general interest to a number of ships and to use selective-signalling for calling particular ship stations. The Commission desires to receive comments concerning the appropriateness of permitting the latter type of transmission on the frequency 2638 kc in reference to the proposed shared use of this frequency with ship stations carrying on intership communication.

7. The proposed amendments contained below are issued under the authority contained in section 303 (b) (c) (d) (f) (g) (h) and (r) of the Communications Act of 1934, as amended.

8. Any interested person who is of the opinion that the proposed amendments should not be adopted or should not be adopted in the form set forth herein, and any person desiring to support this proposal may file with the Commission on or before November 12, 1956, a written statement or brief setting forth his comments. Replies to such comments may be filed within ten days from the last date for filing original comments. The Commission will consider all comments and briefs presented before taking final action in this matter.

9. In accordance with the provisions of § 1.764 of the Commission's rules, an original and 14 copies of all statements, briefs or comments filed shall be furnished the Commission.

Adopted: October 3, 1956.

Released: October 8, 1956.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

A. Part 7 is amended as follows:

1. Section 7.7 is amended by adding a new paragraph (o) to read as follows:

(o) *Operational communication.* Radiocommunication concerning the navigation, movement, or management of a ship or ships.

(1) *Navigation.* This includes the piloting of a vessel.

(2) *Movement.* This includes information and necessary communications relative to when and where the boat or ship will move or be moved as, for example, rendezvous at a port, basin, or marina, or for maneuvers during a cruise.

(3) *Management.* This includes the obtaining of necessary supplies for the ship, limited to immediate needs, and the scheduling of repairs or modifications to the ship, limited to communications with those directly involved in the repairs or modification or concerned with changes in the movement of the ship because of those repairs or modifications.

2. In § 7.134 (c), in lieu of the existing designator "2000-4000 kc" which appears as the heading for the two columns designating "Day" and "Night" authorized maximum transmitter power for this frequency band, substitute a new designator to read: "2000-2632 kc and 2644-3500 kc".

3. In § 7.134 (d), in lieu of the existing text preceding the tabulation of classes of amplifiers and authorized transmitter power, substitute a new paragraph (d) to read as follows:

(d) For coast stations and marine utility stations using telephony on the authorized carrier frequency 2638 kc or on any frequency assignment within the frequency band 35 Mc to 44 Mc and employing amplitude modulation (AM), the maximum authorized transmitter power shall be:

4. In § 7.304 (a), in the list of frequencies set forth in this paragraph, insert the frequency "2638" kc after "2598" and before "2738".

5. Section 7.304 (d) is amended by adding a new subparagraph (8) to read as follows:

(8) Use of the frequency 2638 kc by coast stations in certain geographic areas as prescribed in this part is authorized upon the express condition that harmful interference shall not be caused to intership communication on this frequency, nor to the service of any station which, in the discretion of the Commission, has priority on the frequency or frequencies to which interference results: *Provided*, That with respect to the stations of the maritime mobile service, this condition shall not be construed as prohibiting the operation of a coast station on this frequency pursuant to the provisions of §§ 7.181 (b), 7.182 and 7.183 (b) and (c).

6. Section 7.306 is amended as follows:

a. Redesignate existing paragraph (d) as paragraph (e). Paragraph (e) shall read as follows:

(e) Use of the working frequencies authorized in paragraphs (a), (b), (c) and (d) of this section is subject to the applicable conditions and limitations set forth in § 7.304 (d). Further, and insofar as is practicable, class II coast stations shall use frequencies within the band 4000 kc to 30 Mc only when the use of frequency assignments outside this band will not provide effective communication.

b. Insert a new paragraph (d) to read as follows:

(d) (1) Subject to the specific limitations and conditions imposed herein and as applicable in § 7.304 (d), the carrier frequency 2638 kc is assignable as a working frequency to class II public coast stations for telephony when the coast station and the mobile station transmit alternately on this frequency: *Provided*, That:

(i) Under the provisions of this part, no other working frequency for telephony within the band 1600-5000 kc is available for assignment to a public coast station at the proposed location; and

(ii) The proposed station would be located within the continental United States not less than 100 miles from the seacoast (including the shores of all navigable bays and sounds adjacent to the open sea), the shores of the Great Lakes, the St. Lawrence River, the Illinois and Ohio Rivers, and the Mississippi River south of Hastings, Minnesota.

(2) Use of the frequency 2638 kc for ship-shore communication shall be confined exclusively to safety and operational communication (see paragraphs (a), (d), (f), (g) and (o) of § 7.7). Except for safety communication, operation on the frequency 2638 kc by coast stations shall be limited to day only (see paragraph (m) of § 7.2): *Provided*, That daily operation with respect to operational communication may be continued beyond this time to the extent necessary for compliance with the provisions of paragraph (b) of § 7.186.

(3) Each application for public coast station authorization which requests initial or renewal assignment of the frequency 2638 kc shall include:

(i) An affirmative showing that, for reasons other than the absence of necessary ship or coast station equipment, all of the needed ship-shore communication by means of telephony in the respective area cannot, as a practical matter, be provided by the operation of one or more coast stations exclusively on an assignable frequency or frequencies above 156 Mc; and

(ii) An affirmative showing that there is a need for such station for safety and operational communication by means of telephony in the area involved, that the service of any coast station or stations (public, limited or Government) already established, or authorized to be established within an appropriate time, is not, or will not be, adequate to meet all ship-shore safety and operational communication needs of the maritime mobile service in such area, and that the applicant's proposed operation on 2638 kc for telephony in accordance with applicable provisions of this part would serve effectively the safety and operational communication needs of ships within such area; and

(iii) A description of the procedures or methods to be used by the station licensee to assure compliance with the provisions of subparagraph (2) of this paragraph.

(4) Each application for renewal of public coast station license which requests renewal assignment of the frequency

2638 kc, but not any frequencies above 156 Mc, shall, in respect to any area in which public coast station facilities for ship-shore telephone communication on frequencies above 156 Mc are not yet established or authorized to be established,—

(i) Include an affirmative showing that use of appropriate ship and coast station equipment, if installed and operating on an assignable working frequency above 156 Mc in lieu of 2638 kc for relatively short distance communication, would not decrease a substantial use of 2638 kc by the respective coast station during any part or all of the period of time to be covered by the renewal license; or

(ii) Be accompanied by one or more applications of the same station licensee for station authorization(s) to install and operate supplemental equipment on land to provide public coast station facilities for ship-shore communication over appropriate distances in the respective area on assignable frequencies above 156 Mc, including the calling and safety frequency 156.8 Mc.

B. Part 8 is amended as follows:

1. Section 8.351 (d) (7) is amended to read as follows:

(7) The frequencies 2638 kc and 2738 kc are authorized for use on a shared basis with ship stations of other countries, for the purposes hereinafter prescribed in this subpart. Use of these frequencies for ship-shore communication in certain geographic areas in accordance with this subpart is authorized upon the express condition that harmful interference shall not be caused to inter-ship communication on these frequencies, nor to the service of any station which, in the discretion of the Commission, has priority on the frequency or frequencies to which interference results: *Provided*, That in respect to stations of the maritime mobile service, this condition shall not be construed as prohibiting the operation of ship stations for authorized ship-shore communication on this frequency pursuant to the provisions of §§ 8.176, 8.177 (b), 8.179 and 8.180.

2. Section 8.354 is amended as follows:

a. Redesignate existing paragraph (b) as paragraph (c). New paragraph (c) shall read as follows:

(c) The use of the working frequencies authorized in paragraphs (a) and (b) of this section is subject to the applicable conditions and limitations set forth in § 8.351 (d). Further, and insofar as is practicable, ship stations shall use frequency assignments within the band 4000 kc to 5000 kc only when frequency assignments below 4000 kc or above 30 Mc will not provide effective communication.

b. Insert a new paragraph (b) to read as follows:

(b) Subject to the specific limitations and conditions imposed herein and as applicable in § 8.351, the carrier frequency 2638 kc is authorized as a working frequency for public ship stations for communication with public coast stations by means of telephony when the ship sta-

tion and the coast station transmit alternately on this frequency: *Provided*; That:

(1) (i) For each ship station licensed to transmit on 2638 kc for ship-to-ship communication, this additional authorization is valid only if written request therefor is included in the respective application on file with the Commission for regular ship station license or for modification of license;

(ii) The applicant has stated specifically in such application for the purpose expressed in § 8.301 (a) (1) that operation on 2638 kc is intended, in addition to other authorized use, for communication with one or more public coast stations authorized by the Commission for such operation and identified by the applicant;

(iii) Such application contains a description of the procedure or method to be used by the ship station licensee to assure compliance with the provisions of subparagraph (2) of this paragraph;

NOTE: The information required by this subparagraph may be submitted on a separate sheet attached to the completed official application form. Coast stations with which communication on 2638 kc is authorized in accordance with the provisions of this paragraph are designated in a public notice issued by the Commission, a copy of which may be obtained by each ship station licensee involved. Additionally, a copy of this document, current to the latest practicable date, is appended to this part (§ 8.804—Appendix IV).

(2) Use of the frequency 2638 kc for communication with public coast stations shall be confined exclusively to safety and operational communication (see § 8.6, paragraphs (a), (d), (f), (g), (h) and (m)). Except for safety communication, operation on this frequency for ship-shore communication shall be limited to day only (see § 8.2 (1)): *Provided*, That daily operation with respect to operational communication may be continued beyond this time to the extent necessary for compliance with the provisions of § 8.183;

(3) Operation on the frequency 2638 kc for ship-shore communication as provided in this paragraph shall be limited to those situations in which the use of any other authorized working frequency would be impracticable or ineffective for this purpose;

(4) Except in event of distress, use of the frequency 2638 kc by stations on board aircraft for communication with coast stations is not authorized by any provisions of this paragraph.

3. Section 8.366 (g) is amended to read as follows:

(g) *Authorized use of 2003, 2638, 2738 and 2830 kc.* The radio channels of which 2003, 2638, 2738 and 2830 kc are the authorized carrier frequencies, shall be used for communication between mobile stations in accordance with the provisions of §§ 8.176, 8.177 (b) and 8.358.

[F. R. Doc. 56-8181; Filed, Oct. 10, 1956; 8:49 a. m.]

¹ This appendix would necessarily be promulgated subsequent to finalization of these proposed rules, and if and when one or more such coast stations are authorized.

NOTICES

FEDERAL COMMUNICATIONS
COMMISSION

[Docket No. 11718; FCC 56 M-913]

KEY CITY BROADCASTERS

ORDER SCHEDULING HEARING

In re application of Howard Barrett and Robert H. Nash d/b as Key City Broadcasters, Abilene, Texas; Docket No. 11718, File No. BP-10278; for construction permit.

Pursuant to informal request by counsel for Key City Broadcasters: *It is ordered*, This 4th day of October 1956, that hearing in the above-entitled proceeding is hereby scheduled for October 15, 1956, commencing at 10:00 a. m. at the Commission's offices in Washington, D. C.

FEDERAL COMMUNICATIONS
COMMISSION,[SEAL] MARY JANE MORRIS,
Secretary.[F. R. Doc. 56-8184; Filed, Oct. 10, 1956;
8:49 a. m.]

[Docket Nos. 11789, 11790; FCC 56M-910]

TRADEWINDS BROADCASTING CO. (WCBQ)

ORDER CONTINUING HEARING CONFERENCE

In re applications of M. R. Lankford, tr/as The Tradewinds Broadcasting Company (WCBQ), Sarasota, Florida; for construction permit to replace expired construction permit, Docket No. 11789, File No. BP-10370; and for modification of construction permit, Docket No. 11790, File No. BMP-6920.

On the oral request of counsel for the Broadcast Bureau, and without objection by counsel for the other parties, *It is ordered*, This 4th day of October 1956, that the further conference now scheduled for October 15, 1956, at 10:00 a. m., will begin instead at 2:00 p. m. on the same date, in the offices of the Commission, Washington, D. C.

FEDERAL COMMUNICATIONS
COMMISSION,[SEAL] MARY JANE MORRIS,
Secretary.[F. R. Doc. 56-8185; Filed, Oct. 10, 1956;
8:49 a. m.]

[Docket No. 10133; FCC 56-944]

COMMUNITY BROADCASTING SERVICE, INC.
(WWBZ)MEMORANDUM OPINION AND ORDER REOPEN-
ING RECORD FOR FURTHER HEARING ON
STATED ISSUES

In re application of Community Broadcasting Service, Inc., (WWBZ), Vineland, New Jersey, Docket No. 10133; File No. BR-1435; for renewal of license.

1. The Commission has before it for consideration (1) a petition to vacate and set aside decision and to reopen record, filed on May 25, 1956, by Community Broadcasting Service, Inc. (hereinafter called WWBZ or petitioner); (2)

an opposition thereto filed on June 4, 1956 by the Chief of the Commission's Broadcast Bureau; (3) a reply to such opposition filed on June 11, 1956 by Community Broadcasting Service, Inc.; (4) a petition for grant of one-year probationary license or, alternatively, for one-year suspension of effective date of Commission decision and order, filed on June 25, 1956 by Community Broadcasting Service, Inc.; and (5) an amendment to such petition filed on July 16, 1956.

2. The Commission released its decision in the above-captioned proceeding on November 28, 1955, in which it denied the application of WWBZ for renewal of license. On April 26, 1956, the Commission released a Memorandum Opinion and Order denying the petition of WWBZ for reconsideration and rehearing of the Commission's decision of November 28, 1955.¹

The petition to vacate and set aside decision and to reopen record. 3. As a preliminary consideration, it is appropriate to note certain observations which were made in our Memorandum Opinion and Order of April 26, 1956, wherein we denied WWBZ's petition for reconsideration and rehearing of the decision of November 28, 1955. One of the points urged by WWBZ in that petition related to correspondence dated September 16, 1954 between the Commission and a member of the staff of the Department of Justice, and between the Commission and the Secretary of the Treasury, to the effect that an unknown "United States Attorney in Newark, New Jersey" made a complaint about station WWBZ, and that the Commission had received "allegations made by responsible sources that the broadcast of racing information . . . is being used by bookmakers and gangsters for gambling and illegal purposes . . ." Petitioner asserted that serious error tainted the entire proceeding and decision with respect to horse race results broadcasts since it had not been notified by the Commission of the said complaint or complaints. It was argued further by petitioner that since the complaint or complaints reached the Commission prior to the actual hearing in this proceeding, the Commission erroneously disregarded the requirement of section 309 (b) of the Communications Act that the applicant be advised of "all objections made to the application as well as the source and nature of such objections." In rejecting this contention, we stated:

¹In the Decision released November 28, 1955, WWBZ was granted authority to continue temporary operation for a period of sixty days so that it might have time to cease operation and wind up its affairs. The authority for temporary operation has been extended from time to time; by order released June 22, 1956, WWBZ was granted authority to continue temporary operation of its station for a period of sixty days from and after action (1) by the Commission on its petition to vacate and set aside decision and to reopen record or (2) by the United States Court of Appeals for the District of Columbia Circuit on an appeal filed with that body, whichever is later.

It is to be noted that petitioner's application was designated for hearing prior to the date of the enactment of the Communications Act amendments of 1952, at a time when no statutory requirement existed that objections made to an application as well as the nature and source of such objections should be brought to the applicant's attention prior to formal designation for hearing. This is not to say that in the instant proceeding the applicant was not fairly apprised of the matters at issue herein for it is apparent that our designation order of February 23, 1952, fairly advised the applicant of the subject matter and issues involved. It is to be noted in this connection that the applicant sought neither enlargement nor clarification of the issues herein at any time subsequent to the release of the designation order.

4. In the instant petition, WWBZ requests that the Commission (1) vacate and set aside its Decision, released November 28, 1955, denying its application for renewal of license, and its Memorandum Opinion and Order, released April 26, 1956, denying its petition for reconsideration and rehearing; (2) reopen the record in this proceeding upon reasonable notice; and (3) permit petitioner to present further evidence. The foundation of WWBZ's petition rests upon a statement of further matters in connection with the absence of notice to it of complaints concerning the broadcast of horse race results. Specifically, petitioner adverts to a letter dated August 30, 1954, from an Assistant Attorney General of the United States to the then Chairman of the Commission.

5. It is urged that petitioner has been denied a fair hearing because of the failure of the Commission to comply with § 0.406 (c) of its rules. In this connection, petitioner points out that section 309 (b) of the Communications Act of 1934, as amended, provides, in pertinent part, that an applicant be advised of "all objections made to the application as well as the source and nature of such objections." Petitioner asserts that it was prejudiced because of the fact that

*Sec. 0.406 Inspection of record. Subject to the provisions of sections 4 (j), 213 (f), 412 and 606 of the act, the files of the Commission shall be open to public inspection as follows:

(c) All applications and amendments thereto filed under Title II and Title III of the Act, including all documents and exhibits filed with and made a part thereof, and all communications protesting or endorsing any such applications, authorizations, and certifications issued upon such applications; all pleadings, depositions, exhibits, transcripts of testimony, reports of examiners or presiding officers, exceptions, briefs, proposed reports, or findings of fact and conclusions; all minutes and orders of the Commission. The information filed under § 1341 (47 CFR 1.341) and network and transcription contracts filed pursuant to § 1342 (47 CFR 1.342) shall not be open to public inspection. The Commission may, however, either on its own motion, or on motion of an applicant, permittee or licensee, for good cause shown, designate any of the material in this paragraph as "not for public inspection."

counsel for the Broadcast Bureau were given the opportunity to prepare their case on the basis of "leads" furnished by the "missing letter" whereas the applicant was denied the same opportunity because of the Commission's violation of § 0.406 (c). It is urged that there are implications in the letter from the Department of Justice of a concerted, vindictive, and false campaign against the applicant which might well involve witnesses called by the Broadcast Bureau and affect the weight and credibility of their testimony. Petitioner states that it finds it virtually impossible to believe that some "300 citizens" spontaneously made complaints to any law enforcement officer or agency, in view of the fact that WWBZ received no such complaints either from individuals or from law enforcement agencies. Petitioner submits that it "now wonders whether any of the Broadcast Bureau's witnesses took part in a campaign against the station, or were 'promoted' or prepared as witnesses by persons seeking to attack the applicant for personal reasons." Petitioner urges that it "can only wonder" for the record has been closed and it can no longer ask questions or investigate such matters in the preparation of its case.

6. Petitioner further argues that it has been denied a fair hearing because, through lack of notice of a prejudicial communication to the Commission, it has been unable to take appropriate procedural steps in the hearing process to secure an impartial tribunal. In this connection, petitioner states that one of the purposes of § 0.406 (c) of the Commission's rules providing for public inspection of communications to the Commission adverse to a broadcast applicant is the opportunity thereby afforded an applicant to insure judgment by an impartial tribunal, uninfluenced by ex parte representations. It is urged that failure to disclose the prejudicial letter prevented the applicant from taking reasonable steps in the hearing such as requesting enlargement of the issues, calling additional witnesses and elaborating upon some phases of testimony of certain witnesses. It is petitioner's contention that it did not have its case judged by an unprejudiced tribunal for the letter from the Department of Justice was prejudicially effective upon the Commission.

7. The Broadcast Bureau opposes the instant petition and states that the letter from the Department of Justice contains bare allegations which are not sustained by evidence of record; thus, the Bureau asserts, it cannot be said that the Commission was prejudiced thereby. The Bureau argues that no necessity existed to inform WWBZ of the "objections" contained in the letter from the Department of Justice for no statutory requirement obtained at the date of designation, February 23, 1952,* that an applicant be

advised of "all objections made to the application as well as the source and nature of such objections" preceding formal designation for hearing. The Bureau submits that WWBZ was apprised of the matters at issue by the designation order of February 23, 1952; that discussion at the prehearing conference held on August 17, 1954 reveals that petitioner was fully advised of the objections of the Commission to a grant of its application; and that counsel for WWBZ when asked by the Hearing Examiner whether the issues were understood, responded: "Yes, I believe we understand the issues."

8. It is further asserted by the Broadcast Bureau that the final decision in this proceeding was based on facts of record and not on letters in the Commission's files; that the evidence upon which the decision was based was probative, material and relevant; that petitioner had full opportunity to cross-examine all of the witnesses as well as the opportunity to present rebuttal testimony; and that the applicant availed itself of this opportunity and interposed no objection to the closing of the record upon the conclusion of the testimony in Vineland, New Jersey.

9. In its reply to the opposition of the Broadcast Bureau, WWBZ urges that since the allegations in the Department of Justice letter were not the subject of proof under appropriate issues in the hearing, such letter was prejudicial to it. Petitioner further argues that the prejudice to WWBZ arises from the fact that a strong, condemnatory letter from the Department of Justice to the Commission is "per se" an influential document.

10. The questions posed to us by the instant petition are whether our failure to incorporate into the public docket of this proceeding, at an earlier time,⁴ an alleged condemnatory letter has deprived the petitioner of procedural due process, and whether the contents of such letter have prejudiced the Commission to the extent that the applicant was precluded from being heard by an impartial tribunal. These questions cannot be answered definitively on the restricted basis of reference to section 0.406 (c) of our rules; other circumstances surrounding this proceeding must also be considered. As we understand the instant petition, the suggestion is strong that the incorporation of the letter from the Department of Justice into the public files on or about May 18, 1956 renders this proceeding ineffectual because of a fatal procedural defect. We are aware that section 0.406 (c) serves the salutary purpose of affording opportunity to interested persons to reply to communications which may adversely affect them. It is to be noted here, however, that long before the receipt of the letter from the Department of Justice the renewal application of WWBZ had been designated for hearing upon issues designed to inquire into, inter alia, the matter of horse race results broadcasts by WWBZ and the use, or the likelihood of use, of such

broadcasts by illegal gambling activities. This is not, then, a question of the Commission having before it an ex parte representation as to an aspect of a matter in respect to which it is soon to take action. Here, at the time of the receipt of the letter in question, the proceeding was virtually in the stage of the taking of testimony in response to issues which not only sought information similar to the allegations presented in the Department of Justice letter but also sought detailed information with respect to specified aspects of the WWBZ station operation. In these circumstances, it cannot be said that petitioner was prejudiced by the lack of notification to it of the communication from the Department of Justice. As we pointed out in our Memorandum Opinion and Order of April 26, 1956, no statutory requirement existed at the time petitioner's application was designated for hearing that objections made to an application as well as the nature and source of such objections should be brought to an applicant's attention prior to formal designation for hearing. Thus, to the extent that petitioner urges that section 309 (b) of the Communications Act of 1934, as amended, required that it be notified of the letter from the Department of Justice its argument must fall for the above-stated reasons. Similarly, petitioner's arguments with respect to the effect upon it of the Commission's failure to comply with section 0.406 (c) must be rejected. In this connection, we are unable to see that any injury or prejudice resulted to petitioner thereby. It is pertinent to observe here, as we did in our Memorandum Opinion and Order of April 26, 1956, that at no time subsequent to the release of the designation order in this proceeding did the applicant seek either enlargement or clarification of the issues. We believe that these facts together with the observations that petitioner had full opportunity to cross-examine all of the witnesses at the hearing in this proceeding as well as the opportunity to present rebuttal testimony, and that petitioner availed itself of this opportunity and interposed no objection to the closing of the record herein upon the conclusion of the taking of testimony, effectively disposes of the contention that prejudice resulted because of the non-disclosure of the Department of Justice letter. This is so for the hearing herein was had upon issues which in principle inquired into the very matters alleged in the Department of Justice letter.

11. We do not discuss in detail the petitioner's contention that it was precluded from securing an impartial tribunal because the Department of Justice letter was prejudicially effective upon the Commission. We need only state, in this connection, that our final decision in this proceeding was based upon matters of record, and that the above-mentioned letter was not a matter of record.

The petition for probationary license or for suspension of effective date of decision. 12. WWBZ requests that the Commission (1) grant it a renewal of its license for the period of one year or, alternatively, (2) that it suspend for the period of one year, following action on

*The Broadcast Bureau points out that the WWBZ application was designated for hearing on February 23, 1952, at a time and place to be specified by subsequent order; that such subsequent order, released July 16, 1954, scheduled the hearing for September 29, 1954; and that the record was opened for prehearing conference on August 17, 1954.

⁴On or about May 18, 1956, the letter from the Department of Justice was placed in the public Docket of this proceeding.

the instant petition, the effective date of the Commission's Decision of November 28, 1955, denying WWBZ's application for renewal of license. Petitioner states that the purpose of its petition is to permit, through either of the alternative procedures, continuation of the WWBZ operations on a probationary basis for a probationary period of one year in order that the Commission may be further assured that WWBZ has been, is, and will continue operating in the public interest, at the service of the people of Vineland and area, and in full conformity with all Commission policies, rules, and regulations. In support of its contention that a grant of authority to WWBZ to operate for a probationary period would be in the public interest, petitioner points out that its station is the only station located in Vineland, New Jersey; that it discontinued the broadcast of horse racing information in March of 1955; and that the probationary period of operation for one year, rather than an extension of operations pending the outcome of the court appeal, would have a more stable effect upon the operations of WWBZ, thus benefiting the public interest through effective station operations.

13. We have considered the legal arguments in support of petitioner's contention that the Commission possesses the authority to renew a broadcast license for the period of one year. Undoubtedly, if we chose to exercise our discretion in this respect, we could, within the frame work of the Communications Act and our Rules, renew a broadcast license for a one-year term. Similarly, if we chose we could suspend the effective date of our decision herein for a one-year period. These matters, however, rest within our discretion, and in the circumstances of this proceeding we believe that we should not exercise our discretion in the manner requested.

14. We have carefully reviewed the entire proceeding herein, and, on our own motion, we are of the opinion that the ends of justice and the public interest, convenience and necessity would best be served by reopening the record and affording further hearing to petitioner under the issues which previously controlled this proceeding.

15. In view of the foregoing: *It is ordered*, That the petition of Community Broadcasting Service, Inc., to vacate and set aside decision and to reopen record, filed on May 25, 1956, is denied; and

It is further ordered, That the petition of Community Broadcasting Service, Inc., filed June 25, 1956, for grant of one-year probationary license or, alternatively, for one-year suspension of effective date of our decision and order, is denied; and

It is further ordered, That on our own motion our decision of November 28, 1955 and our Order of April 26, 1956, are vacated and set aside, and that the above-entitled matter is remanded to the Hearing Examiner, who originally presided at this hearing, with the instructions to reopen the record for further hearing under the issues which previously controlled this proceeding; and

It is further ordered, That after procedural steps appropriate to the further proceeding herein have been taken, the

Hearing Examiner shall issue a supplemental initial decision; and

It is further ordered, That Community Broadcasting Service, Inc. is granted authority to continue temporary operation of Station WWBZ pending the Commission's final determination of this proceeding.

Adopted: October 3, 1956.

Released: October 8, 1956.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 56-8182; Filed, Oct. 10, 1956;
8:49 a. m.]

[Docket No. 11631; FCC 56-946]

ROCHESTER BROADCASTING CO.

MEMORANDUM OPINION AND ORDER
AMENDING ISSUES

In re application of Victor J. Tedesco and Nicholas Tedesco, d/b/a The Rochester Broadcasting Company, Rochester, Minnesota, Docket No. 11631, File No. BP-9991; for construction permit.

1. The Commission has before it for consideration a motion to enlarge the issues filed on March 12, 1956, by Minnesota Television Public Service Corporation (WTCN). An opposition to the motion was filed on March 21, 1956 by Rochester Broadcasting Company (Rochester), comments and opposition were filed on March 22, 1956, by the Commission's Broadcast Bureau (Bureau), and a reply to opposition was filed on March 26, 1956, by WTCN.

2. Rochester is a partnership composed of two brothers, Victor J. and Nicholas Tedesco, each of whom is committed by the partnership agreement to pay \$10,000 as his minimum capital contribution. Rochester filed its application for a construction permit for a new standard broadcast station to operate on 1270 kc with 0.5 kw power during daytime hours at Rochester, Minnesota, on July 22, 1955. This application was designated for hearing on February 16, 1956, following a petition by WTCN, operating on 1280 kc with 0.5 kw power during daytime hours at St. Paul, Minnesota which petition alleged loss of 1,219 persons in an area of 65 square miles due to adjacent channel interference. WTCN was made a party to the proceeding and the issues were confined to the question of interference.

3. Additional issues requested by WTCN in its motion to enlarge are:

Issue No. 1. To determine the nature and character of the program service which will be lost to the areas which will receive interference from the operation of the proposed station and the nature and character of the program service proposed to be rendered by the applicant.

Issue No. 2. To determine whether a grant of the above-entitled application would be in contravention of the provisions of § 3.35 of the Commission's rules in the light of common ownership interests and the oper-

¹ Commissioners Doerfer and Craven dissenting and voting to reconsider previous action and grant renewal application.

ating practices employed at other broadcast stations and to be employed at the proposed station by the parties to the above-entitled application.

Issue No. 3. To determine whether the applicant possesses the financial qualifications to construct and operate the proposed station.

Issue No. 4. To determine whether the provision in the applicants' partnership agreement which provides that "neither of the partners shall engage in any business except the partnership or upon account thereof" is contrary to the public interest because it would preclude the applicants from carrying out licensee responsibilities with which they have heretofore been entrusted by the Commission in connection with other broadcasting facilities.

4. WTCN cites Democrat Printing Company v. FCC, 7RR 2138 in support of its request for the inclusion of Issue No. 1, supra, asserting that a comparative program showing is necessary as a basis upon which the Commission can conclude whether or not a grant to Rochester would serve the public interest despite interference caused by it. Inclusion of Issue No. 2 is supported by the statement that the Tedesco brothers own or control the following standard broadcast stations:

Call letter	Location	Percent ownership
WCOW (now identified as WISK).	St. Paul, Minn....	66%
KCUE.....	Red Wing, Minn....	100
WKLJ (now identified as WCOW).	Sparta, Wis.....	74

WTCN asserts that, if the proposed Rochester station is built, 31.2 percent of the population and 38 percent of the area within its 0.5 mv/m contour will receive service from two Tedesco stations; that 51.8 percent of the population and 56.3 percent of the area within the KCUE 0.5 mv/m contour will receive service from two Tedesco stations; and that these factors, when considered in the light of the Tedesco's public announcement that time will be sold by them on a package discount plan, raise a public interest question which must be determined by the Commission. With respect to Issue No. 3, WTCN alleges that the balance sheets of the partners do not reflect sufficient liquid assets to meet their partnership contributions and that the principal source of funds upon which they depended to meet their commitments, i. e., a \$20,000.00 bank loan, was exhausted by the subsequent purchase of radio station KAAA (now identified as KCUE). Finally, in support of Issue No. 4, supra, WTCN argues that the provision in the Rochester partnership agreement that "neither of the partners shall engage in any business except the partnership, or on account thereof" would amount to an abdication of their responsibility as licensees of WISK, KCUE, and WCOW.

5. In addition to the above, WTCN's reply to opposition, calls attention to the application of Albert Tedesco, tr/as Winona Broadcasting Company, for a new standard broadcast station at Winona, Minnesota which apparently will overlap to some extent both WCOW and the proposed Rochester Station. Although

Albert Tedesco alleges that in the operation at Winona he will be disassociated with his father and brothers, WTCN urges that, in view of the combination and discount selling practiced by the Tedescos, the full hearing required should include evidence on the relationship between St. Paul, Red Wing, Sparta, the proposed Rochester station, and the proposed Winona station.

Conclusions. 6. We are of the opinion that WTCN's request for the inclusion of issues 1, 3, and 4, set forth in paragraph 3, supra, must be denied for the following reasons:

Issue No. 1. WTCN relies upon § 3.24 (b) ¹ of the rules and the Democrat Printing Company case supra, as supporting its request for a comparative programming issue and apparently takes the position that, in conformity with the Democrat Printing Company case, the Commission must permit inquiry into the comparative merits of programming between WTCN and the proposed Rochester station in the interference area as a matter of law. We do not believe that, under the facts of this case, WTCN has made a showing adequate to justify inclusion of the requested issue. The Democrat Printing Company case, supra, is distinguished in that the court was there concerned with (a) substantial interference as contrasted with the minimal interference alleged by WTCN ², (b) the possibility that the station suffering loss may have programmed especially for the interference area, whereas WTCN is about 50 miles removed from such area and has not alleged that a program service is provided which is designed for it. For further reasons in support of our denial of WTCN's request to include Issue No. 1, see News on the Air, Inc., Memorandum Opinion and Order released July 27, 1956 (14 RR 123).

Issue No. 3 WTCN's request for the inclusion of this issue is based upon an alleged exhaustion of the Tedesco's principal source of funds, i. e., a \$20,000 loan from the Northwestern State Bank of St. Paul. In view of the facts that (a) the original bank commitment was specifically identified with the Rochester application and (b) this commitment was subsequently confirmed on March 16, 1956 by the President of the Northwestern State Bank of St. Paul in a letter to the Commission, we are unable to conclude that a showing has been made which is sufficient to justify inclusion of the requested issue.

Issue No. 4. The basis of this issue was certain language in Rochester's partnership agreement which was subsequently deleted by amendment. The petition for leave to amend so as to delete the objectionable language was granted on March 27, 1956, by the Chief Hearing Examiner.

¹ Section 3.24 (b) provides, in pertinent part, that an authorization for a new standard broadcast station will be issued only after a satisfactory showing has been made. "That . . . if interference will be caused, the need for the proposed service outweighs the need for the service which will be lost by reason of such interference. That the proposed station will not suffer interference to such an extent that its service would be reduced to an unsatisfactory degree."

² The Democrat Printing Company case was concerned with 164,000 persons, amounting to about 41 percent of the population losing service of the existing station, whereas WTCN alleges loss of only 1,219 persons. Total population served by WTCN was not stated in the pleadings. The Commission's records, however, indicate that as of 1946 WTCN provided primary service to more than 1,000,000 persons.

7. With respect to Issue No. 2, involving the question of compliance with § 3.35 ³ of the rules, we are of the opinion that WTCN's motion should be granted, although the requested issue will be modified so as to make it more definite and certain. In the present case, a grant to Rochester would result in ownership by the same interests of four standard broadcast stations the primary service areas of which would overlap or be closely proximate to one another. In addition, the Tedescos employ a combination and discount selling plan by which advertisers using more than one Tedesco station are given a reduced rate. Under such circumstances we believe inquiry into compliance with § 3.35 of the Commission's rules is warranted. Contrary to Rochester's argument, the Commission is not limited to the inclusion of those issues which are "absolutely disqualifying." In any event, § 3.35 of the rules precludes issuance of a license to a party if non-compliance with the multiple ownership provisions would result. The Commission has examined the letter of Rochester's counsel dated August 30, 1956 in which it is stated that Rochester would be willing to accept a grant " . . . subject to the condition, if the Commission finds that the imposition of such a condition is required under its multiple ownership rules, that the Tedesco brothers, who are the principals in the Rochester application, dispose of their interest in Station KCUE, Red Wing, Minnesota, prior to the commencement of program tests at Rochester." Without more detailed facts upon which to base a decision, we are not in a position to say

³ Section 3.35 provides in pertinent part as follows:

§ 3.35 Multiple ownership. No license for a standard broadcast station shall be granted to any party (including all parties under common control) if:

(a) Such party directly or indirectly owns, operates or controls another standard broadcast station, a substantial portion of whose primary service area would receive primary service from the station in question, except upon a showing that public interest, convenience and necessity will be served through such multiple ownership situation; or

(b) Such party, or any stockholder, officer or director of such party, directly or indirectly owns, operates, controls, or has any interest in, or is an officer or director of any other standard broadcast station if the grant of such license would result in a concentration of control of standard broadcasting in a manner inconsistent with public interest, convenience or necessity. In determining whether there is such a concentration of control, consideration will be given to the facts of each case with particular reference to such factors as the size, extent and location of areas served, the number of people served, classes of stations involved and the extent of other competitive service to the areas in question.

⁴ WTCN, in its "Reply to Opposition" (see paragraph 5, supra) urges that Issue No. 2 be expanded to include inquiry as to the relationship of Winona Broadcasting Company with the St. Paul, Red Wing, Sparta and proposed Rochester stations. Due to the lack of information before us in this proceeding, we do not feel justified in so expanding Issue No. 2 but are of the opinion that the question raised may be more appropriately dealt with when the application of Winona Broadcasting Company is considered.

whether a violation of the Rule would result; the appropriate means of developing this evidence is at a hearing at which this question can be explored.

8. Accordingly, it is ordered, This 3d day of October 1956, that the Motion to Enlarge Issues filed on March 12, 1956 by Minnesota Television Public Service Corporation (WTCN), Minneapolis, Minnesota, is granted insofar as the issues are amended to include the following issue:

To determine the overlap, if any, that will exist between the service areas of the station proposed by Rochester Broadcasting Company and of Station KCUE, Red Wing, Minnesota, the nature and extent thereof, and whether such overlap if any, is in contravention of § 3.35 (a) of the Commission's rules and whether a grant of the application of Rochester Broadcasting Company would be in contravention of § 3.35 (b) of the Commission's rules with particular reference to the matters specified in this section of the rules and in addition, to the combination advertising proposal offered by Rochester Broadcasting Company to advertisers.

And is denied in all other respects; and the record in the above-entitled matter is reopened and the proceeding is remanded for the limited purpose of permitting the introduction of evidence relative to the above stated issue and the issuance thereafter of a new Initial Decision.

Released: October 8, 1956.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 56-8183; Filed, Oct. 10, 1956; 8:49 a. m.]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 8127, 7963]

CALIFORNIA EASTERN AVIATION, INC.;
INTERLOCKING RELATIONSHIPS

NOTICE OF PREHEARING CONFERENCE

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned for October 15, 1956, at 10:00 a. m., e. d. s. t., in the Foyer of the Commerce Auditorium, Commerce Building, 14th and Constitution Avenue NW., Washington, D. C., before Examiner John Cannon.

Dated at Washington, D. C., October 8, 1956.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 56-8191; Filed, Oct. 10, 1956; 8:50 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6708]

SIERRA PACIFIC POWER CO.

NOTICE OF APPLICATION

OCTOBER 5, 1956.

Take notice that on October 3, 1956, an application was filed with the Federal

Power Commission pursuant to section 204 of the Federal Power Act by Sierra Pacific Power Company ("Applicant"), a corporation organized under the laws of the State of Maine and doing business in the States of California and Nevada, with its principal business office at Reno, Nevada, seeking an order authorizing the issuance by competitive bidding of \$3,000,000 principal amount of First Mortgage Bonds, -- percent Series due 1986 to be dated as of November 1, 1956, and to mature November 1, 1986. Said bonds are to be issued by Applicant for the purpose of obtaining funds to pay bank loans made for construction purposes.

Any person desiring to be heard or make any protest with reference to said application should on or before the 25th day of October 1956, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure. The application is on file and available for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-8183; Filed, Oct. 10, 1956;
8:46 a. m.]

[Docket No. E-6709]

ARKANSAS POWER & LIGHT CO.

ORDER SUPERSEDING ORDER INSTITUTING
INVESTIGATION

On July 29, 1953, the Commission issued an order instituting a preliminary investigation pursuant to the provisions of the Federal Power Act, particularly section 10 (f) thereof respecting the probable benefits to be received by the Carpenter and Rempel hydroelectric developments on the Ouachita River in Arkansas (Project No. 271) downstream from the Blakely Mountain Project then under construction by the United States Army Corps of Engineers. The Arkansas Power & Light Company is the licensee for Project No. 271.

The Blakely Mountain Project of the United States has been placed in operation. The initial filling of the reservoir of the Blakely Mountain Project commenced on July 7, 1952, and ended on September 30, 1955. The first of the two generating units at the Blakely Mountain Project was placed in commercial operation on September 15, 1955, and the second unit was placed in commercial operation on October 1, 1955.

The preliminary investigation indicates that the filling of the Blakely Mountain reservoir resulted in a net reduction in energy generated at the two downstream plants of the Arkansas Light & Power Company during the filling period. The preliminary investigation also indicates that subsequent to the initial filling of the Blakely Mountain reservoir, it has provided substantial benefits to the downstream Carpenter and Rempel plants. Therefore, an investigation should be instituted to determine the equitable proportion of the annual charges to be paid by the owner of the Carpenter and Rempel developments for actual benefits received from the Blakely Mountain Project.

It is appropriate that losses sustained at Project No. 271 caused by the initial filling of the Blakely Mountain reservoir be off-set against benefits subsequently received by Project No. 271 from the Blakely Mountain headwater improvement.

The Commission finds: It is appropriate and in the public interest that the aforesaid investigation be enlarged, and the Commission's order issued July 29, 1953 instituting the preliminary investigation be superseded as hereinafter provided.

The Commission orders: The aforesaid order issued July 29, 1953 is superseded by an order reading as follows:

An investigation is hereby instituted pursuant to the provisions of the Federal Power Act, particularly section 10 (f) thereof, for the purpose of enabling the Commission to determine whether Project No. 271 of the Arkansas Power & Light Company located on the Ouachita River downstream from the Blakely Mountain headwater improvement constructed by the United States is directly benefited by the construction and operation of such upstream improvement of the United States and, if it so finds, to determine the equitable proportion of the annual charges to be paid by the owner of Project No. 271 so benefited for interest, maintenance and depreciation on such upstream improvement constructed by the United States.

Issued: October 4, 1956.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-8165; Filed, Oct. 10, 1956;
8:46 a. m.]

[Docket No. G-2603 etc.]

PHILLIPS PETROLEUM CO. ET AL.

NOTICE OF SEVERANCE AND CONTINUANCE

OCTOBER 5, 1956.

In the matters of Phillips Petroleum Company, et al., Docket No. G-2603, et al.; Sunray Mid-Continent Oil Company, Docket Nos. G-4912, G-4914-G-4919, inclusive, G-4944, G-4945, G-4947-G-4954, inclusive, G-6044, G-6046-G-6051, inclusive, G-6053, G-6054, G-6056, G-6057, G-6059; Shell Oil Company, Docket No. G-5660.

Notice is hereby given that the applications of Sunray Mid-Continent Oil Company in Docket Nos. G-4912, G-4914-G-4919, inclusive, G-4944, G-4945, G-4947-G-4954, inclusive, G-6044, G-6046-G-6051, inclusive, G-6053, G-6054, G-6056, G-6057, and G-6059, and Shell Oil Company in Docket No. G-5660, in the above consolidated proceedings, and scheduled for a hearing on October 11, 1956, at 9:30 a. m., e. d. s. t., are hereby severed therefrom and continued for a hearing at a subsequent date to be set by further notice.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-8176; Filed, Oct. 10, 1956;
8:48 a. m.]

[Docket No. G-9451, etc.]

MIDWESTERN GAS TRANSMISSION CO. ET AL.

ORDER FIXING DATE OF ORAL ARGUMENT

In the matters of Midwestern Gas Transmission Company, Docket Nos. G-9451, G-9452 and G-9453; Tennessee Gas Transmission Company, Docket Nos. G-1922, G-9449, G-9450, G-9454; Iron Ranges Natural Gas Company, Docket No. G-9648; Central Wisconsin Gas Company, Docket No. G-9813.

The Commission, by Order issued July 6, 1956, in the above-entitled proceeding, referred to the Presiding Examiner for a recommended decision the various motions to dismiss filed by Northern Natural Gas Company, Natural Gas Pipe Line Company of America jointly with Texas Illinois Natural Gas Company, Northern Indiana Public Service Company, Michigan Wisconsin Pipe Line Company jointly with American Louisiana Pipe Line Company, The Peoples Gas Light and Coke Company jointly with Chicago District Pipeline Company, and National Coal Association jointly with United Mine Workers of America, Fuels Research Council, Inc., Western States Fuel Policy Council, Anthracite Institute, Maher Coal Bureau and The Chesapeake and Ohio Railway Company, as to certain applications in these proceedings.

The Commission provided further in said order for the filing of exceptions to said recommended decision in accordance with § 1.31 of the rules of practice and procedure.

The Presiding Examiner, pursuant to said order, filed on September 28, 1956, his recommended decision and the time of filing exceptions thereto expires on October 18, 1956.

The Commission finds: The above motions should be disposed of at the earliest possible time and it is desirable that oral argument in this matter be had before the Commission by any parties desiring to be heard.

The Commission orders:

(A) Oral argument before the Commission in this matter is hereby set for October 22, 1956, at 10:00 a. m., e. d. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington 25, D. C.

(B) Request for time for oral argument shall be filed with the Secretary of the Federal Power Commission on or before October 12, 1956.

Issued: October 4, 1956.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-8160; Filed, Oct. 10, 1956;
8:45 a. m.]

[Docket No. G-9593]

TEXAS CO. ET AL.

ORDER AMENDING ORDER SUSPENDING
PROPOSED CHANGES IN RATES

By order issued November 2, 1955, in this proceeding, certain changes proposed by The Texas Company (Appli-

cant) in its Supplement No. 1 to its FPC Gas Rate Schedule No. 3 were suspended and the use thereof deferred pursuant to the provisions of section 4 (e) of the Natural Gas Act. Applicant's Rate Schedule No. 3, consisting of a contract dated May 22, 1953, with United Fuel Gas Company, then showed Applicant as the only party seller.

On August 8, 1956, Applicant filed a request for consolidation of filings by operator pursuant to § 154.91 (b) of the Commission's Regulations under the Natural Gas Act. This filing showed that Applicant was the operator and owner of the majority of the working interests in three Valentine Field Units, from which natural gas is sold under the contract of May 22, 1953. Six individual owners of working interests in the three units have ratified the May 22 contract, as shown by filing of individual rate schedules with the Commission. Each of these individuals, hereinafter listed, filed proposed changes in their rate schedules, all denominated Supplement No. 1 to FPC Gas Rate Schedule No. 1, and all such proposed changes were suspended by orders issued November 2, 1955, in the following dockets:

Working interest owner:	Docket No.
H. L. Brown	G-9597
Dolte Chermale	G-9598
Robert Mosbacher	G-9599
Eunice J. Vinet	G-9600
W. R. Wheeler	G-9601
James L. Woods	G-9602

The Texas Company requests (a) that its FPC Gas Rate Schedule No. 3 be regarded as an operator filing on behalf of and as agent for the several minority owners shown above; (b) that the suspension order of November 2, 1955, in this proceeding be amended to include said minority owners, and (c) that concurrently therewith, the proceedings in Docket Nos. G-9597 through G-9602 be terminated.

The Commission finds: The action requested by Applicant is reasonable and consistent with efficient administration of the Natural Gas Act. Separate orders terminating the proceedings in Docket Nos. G-9597 through G-9602 will be issued concurrently herewith.

The Commission orders: The order suspending proposed changes in rates in Docket No. G-9593 and issued November 2, 1955, be and is hereby amended as follows: (a) The title of the proceeding is amended to read, "In the Matter of The Texas Company, et al.", and (b) the first paragraph of the order of November 2, 1955, is amended to read, "The Texas Company (Applicant), on behalf of itself as operator and H. L. Brown, W. R. Wheeler, Eunice J. Vinet, Dolte Chermale, Robert Mosbacher, and James L. Woods, non-operators, on October 3, 1955, tendered * * * (et cetera)."

Issued: October 4, 1956.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-8177; Filed, Oct. 10, 1956;
8:48 a. m.]

No. 198—4

[Docket No. G-10396 etc.]

AMERICAN LOUISIANA PIPE LINE CO. ET AL.
NOTICE OF APPLICATION AND CONSOLIDATION
OF PROCEEDINGS

OCTOBER 5, 1956.

In the matters of American Louisiana Pipe Line Company, Docket No. G-10396; Gulf Refining Company, Docket Nos. G-10398, G-10399, G-10400, G-10442, G-10443; Panhandle Eastern Pipe Line Company, Docket No. G-11061.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle), a Delaware corporation with principal offices at 1221 Baltimore Avenue, Kansas City 5, Missouri, and 120 Broadway, New York 5, New York, filed on September 10, 1956, an application pursuant to section 7 (b) of the Natural Gas Act for an order permitting and approving complete abandonment of service to Michigan Consolidated Gas Company (Michigan Consolidated). According to the application, Panhandle is presently delivering to Michigan Consolidated 125,000 Mcf of natural gas per day at Detroit, Michigan, and 2,000 Mcf of natural gas per day at Ann Arbor, Michigan.

American Louisiana Pipe Line Company (American Louisiana) earlier on May 14, 1956 filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, Docket No. G-10396, authorizing it to construct and operate certain facilities for the transportation and sale of natural gas in interstate commerce which would increase the sales capacity of its certificated pipeline system from 300,000 Mcf of natural gas per day to 400,000 Mcf of natural gas per day, a portion of which increased sales capacity American Louisiana proposes to deliver to Michigan Consolidated.

Applications for certificates of public convenience and necessity pursuant to section 7 of the Natural Gas Act, Docket Nos. G-10398, G-10399, G-10400, G-10442 and G-10443, related to the application of American Louisiana Docket No. G-10396, were filed by Gulf Refining Company (Gulf) on May 14, and May 21, 1956. Notice of the applications of American Louisiana and Gulf and date of hearing thereon was published in the FEDERAL REGISTER on August 24, 1956 (21 F. R. 6397-6398). By notice issued October 4, 1956, the hearing on the applications of American Louisiana, Docket No. G-10396, and Gulf, Docket Nos. G-10398, G-10399, G-10400, G-10442 and G-10443, was postponed from October 9, 1956, to a date to be fixed by further notice.

The application of Panhandle Eastern Pipe Line Company, Docket No. G-11061, is on file with the Commission and open for public inspection.

The foregoing related matters should be heard on a consolidated record and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing be held on a date and

at a time and place to be fixed by further notice concerning the matters involved and the issues presented by the applications in Docket Nos. G-10396, G-10398, G-10399, G-10400, G-10442, G-10443 and G-11061.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 29, 1956.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-8159; Filed, Oct. 10, 1956;
8:45 a. m.]

[Docket No. G-10396 etc.]

AMERICAN LOUISIANA PIPE LINE CO. AND
GULF REFINING CO.

NOTICE OF POSTPONEMENT OF HEARING

OCTOBER 4, 1956.

In the matters of American Louisiana Pipe Line Company, Docket No. G-10396; Gulf Refining Company, Docket Nos. G-10398, G-10399, G-10400, G-10442 and G-10443.

Take notice that the hearing now scheduled for October 9, 1956, in the above-entitled matters is postponed to a date to be hereafter fixed by further notice.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-8161; Filed, Oct. 10, 1956;
8:45 a. m.]

[Docket No. G-11024 etc.]

CONTINENTAL OIL CO. ET AL.

NOTICE OF APPLICATIONS

OCTOBER 3, 1956.

In the matters of Continental Oil Company, Docket No. G-11024; The Atlantic Refining Company, Docket No. G-11034; Cities Service Production Company, Docket No. G-11046; Tidewater Oil Company, Docket No. G-11049.

Take notice that the persons captioned above, hereinafter collectively referred to as Applicants, filed on September 5, 1956, in Docket No. G-11024, September 7, 1956, in Docket No. G-11034, and September 10, 1956, in Docket Nos. G-11046 and G-11049, respectively, separate applications for certificates of public convenience and necessity, pursuant to section 7 (c) of the Natural Gas Act, authorizing Applicants to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the applications which are on file with the Commission and open for public inspection.

Each Applicant proposes to sell natural gas in interstate commerce from production of its 25 percent interest in 5 leases in West Cameron Area, 12 leases in East Cameron Area, and 7 leases in Vermilion Area, all offshore the coast of Cameron and Vermilion Parishes, Louisiana in the

Gulf of Mexico, to Tennessee Gas Transmission Company for resale.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations, and to that end: Take further notice that protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 19, 1956.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-8164; Filed, Oct. 10, 1956;
8:46 a. m.]

[Project No. 2000]

DEPARTMENT OF PUBLIC UTILITIES OF THE
COMMONWEALTH OF MASSACHUSETTS V.
POWER AUTHORITY OF STATE OF NEW
YORK

NOTICE OF POSTPONEMENT OF HEARING

OCTOBER 4, 1956.

Upon consideration of the application filed October 3, 1956, by the Massachusetts Department of Public Utilities for postponement of the hearing now scheduled for October 15, 1956, in the above-designated matter;

Notice is hereby given that said hearing is postponed to 10:00 a. m., e. d. s. t., on January 28, 1957, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-8162; Filed, Oct. 10, 1956;
8:45 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1031]

ADAMS EXPRESS CO. AND AMERICAN
INTERNATIONAL CORP.

NOTICE OF FILING OF APPLICATION FOR ORDER
EXEMPTING PURCHASE OF SECURITIES
FROM AFFILIATES DURING EXISTENCE OF
UNDERWRITING SYNDICATE

OCTOBER 5, 1956.

Notice is hereby given that Adams Express Company ("Adams") and American International Corporation ("American"), affiliated registered closed-end diversified management companies, have filed an application pursuant to sections 10 (f) and 17 (b) of the Investment Company Act of 1940 ("act") for an order of the Commission exempting from the provisions of sections 10 (f) and 17 (a) the proposed purchase by Adams or American, or both, from certain underwriters of Subordinated Debentures due October 1, 1976 ("Debentures"), of Fansteel Metallurgical Corporation ("Fansteel"), a New York corporation. Adams owns approximately 70 percent of the outstanding voting securities of American.

The application states that on September 11, 1956, Fansteel filed a registra-

tion statement (File No. 2-12774) under the Securities Act of 1933 covering a proposed issue of \$3,000,000 of convertible Debentures. The Debentures are to be dated October 1, 1956, with interest payable semi-annually. Among the principal underwriters named or to be named in such registration statement are Adamex Securities Corporation ("Adamex"), Hallgarten and Co. ("Hallgarten") and R. W. Pressprich and Co. ("Pressprich"). Adamex is a wholly-owned subsidiary of Adams, primarily engaged in the business of underwriting and distributing securities issued by other persons. Maurice Newton, a partner in Hallgarten, and Clinton S. Lutkins, a partner in Pressprich, are members of the Board of Managers of Adams and of the Board of Directors of American. By definition under the act, Messrs. Newton and Lutkins are affiliated persons of Hallgarten and Pressprich, respectively, and both are affiliated persons of Adams and American. Adamex is also by definition an affiliated person of Adams and American.

Adams, which had total assets as of June 30, 1956, of \$101,106,773, may determine to purchase not to exceed a principal amount of \$150,000 of the Debentures, which is 5 percent of the total issue, and American, which had total assets as of March 31, 1956, of \$38,513,583, may determine to purchase not to exceed a principal amount of \$100,000 of the Debentures, which is 3.3 percent of the total issue. Such purchase or purchases will not be made until after Fansteel's registration statement has become effective and the price and other terms of such offering have been made public. Such purchase or purchases may be made in whole or in part from Adamex, or Hallgarten, or Pressprich, or from any other underwriter of the Debentures, and will be made at the price at which the Debentures are offered to the general public, and the underwriter or underwriters selling the Debentures to either Adams or American, or both of them, will receive the same discounts and commissions in connection therewith as in the case of Debentures sold to the general public.

Section 10 (f) of the act provides, among other things, that no registered investment company shall knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security (except a security of which such company is the issuer) a principal underwriter of which is an officer or director of such registered company or is a person of which any such officer or director is an affiliated person. The Commission may exempt a transaction from this prohibition if and to the extent that such exemption is consistent with the protection of investors. Since partners of Hallgarten and Pressprich, members of the principal underwriting group, are a manager of Adams and a director for American, respectively, and since Adamex is an affiliate of American, the proposed purchase is prohibited by the provisions of section 10 (f) unless the Commission finds that the proposed acquisition of securities is consistent with the protection of investors.

Section 17 (a) of the act, among other things, prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, from selling to such registered investment company any securities or property, subject to certain exceptions not pertinent here. The Commission upon application pursuant to section 17 (b) may grant an exemption from the prohibitions of section 17 (a) if it finds that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of the registered investment company concerned, as recited in its registration statement and reports filed under the act, and is consistent with the general purposes of the act.

Adams and American state in their application that the decision by either of them to purchase any of the Debentures, if made, will be based upon the opinion of its management that the purchase of such Debentures, at the public offering price, will constitute a good investment for such applicant. The application states that Adams presently owns 6,180 shares (0.81%) and American 4,120 shares (0.54%) of the common stock of Fansteel. The application also states that Adams and American believe that the requested exemption is consistent with the protection of investors as required by section 10 (f) of the act. They further believe that all the requirements of section 17 (b) of the act are met.

Notice is further given that any interested person may, not later than October 18, 1956, at 5:30 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N-5 of the rules and regulations promulgated under the act.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 56-8166; Filed, Oct. 10, 1956;
8:46 a. m.]

[File No. 70-3520]

GENERAL PUBLIC UTILITIES CORP. AND
EMPLOYEES WELFARE ASSOCIATION, INC.

NOTICE OF PROPOSED SALE OF SUBSIDIARY
EMPLOYEES' LIFE INSURANCE COMPANY
AND REACQUISITION OF SUBSIDIARY EM-
PLOYEES' PENSION COMPANY

OCTOBER 5, 1956.

Notice is hereby given that General Public Utilities Corporation ("GPU"), a registered holding company, and its

wholly-owned subsidiary, Employees Welfare Association, Incorporated, a Delaware corporation ("EWADEL"), have filed an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("act"), designating sections 9 (a), 10, 11 (b), and 12 (f) thereof and Rules U-43 and U-44 (c) thereunder as applicable to the proposed transactions, which are summarized as follows:

(1) GPU proposes to sell to Brown, Crosby & Co., Inc., a nonaffiliate, for a cash consideration of \$1,000, all the outstanding stock of EWADEL, consisting of 10 shares of Class B common stock without par value.

(2) EWADEL proposes to sell, and GPU proposes to acquire, for a cash consideration of \$1,000, all the outstanding stock of Employees Welfare Association, Inc., a New Jersey corporation ("EWA-NJ"), consisting of 1,000 shares of common stock of the par value of \$1 per share.

EWADEL, organized in 1931, is engaged in servicing employees' group life and ordinary life policies issued under the GPU system's life insurance plan. In addition to servicing such policies in respect of employees of the presently-constituted GPU system, EWADEL has continued to administer policies relating to employees of certain companies which were formerly, but are no longer, part of the GPU system. In 1951, GPU was ordered by the Commission, pursuant to section 11 (b) (1) of the act, to dispose of that part of the business relating to the servicing of the insurance policies of employees of those companies which are no longer a part of its system (Holding Company Act Release No. 10982). Having concluded that it would not be economically or administratively feasible to attempt to reduce the scope of EWADEL's activities to the servicing of employee policies of the present GPU system, GPU accordingly proposes to divest itself of its entire interest in EWADEL. EWADEL operates on a non-profit basis; its operating expenses (approximately \$21,000 in the twelve months ended June 30, 1956) are reimbursed through deductions from dividends received by it on the life insurance policies, the balance of such dividends being remitted by it to the employing companies. The proposed sales price of \$1,000 is equal to the present book value of EWADEL's outstanding capital stock.

EWANJ, a wholly owned subsidiary of EWADEL, was organized in 1937 as a necessary corporate link in the establishment of a pension trust for employees of the holding company system of Associated Gas and Electric Company, GPU's predecessor in interest. Apart from certain nominal administrative functions in respect of the pension trust (which is in process of liquidation) EWANJ is inactive and has no income or expenses. Its only asset, carried on its books at \$1, consists of an interest in the pension trust agreement stemming from its original deposit of \$1,000 with the pension trustee. In the Commission's order of 1951, GPU was permitted to retain its interest in EWANJ pending the latter's

orderly liquidation. Accordingly, GPU proposes to acquire EWANJ from EWADEL and to hold the company as a direct subsidiary pending its liquidation.

It is stated that no other regulatory commission has jurisdiction over the proposed transactions.

The fees and expenses to be paid by GPU in connection herewith are estimated at not over \$1,000.

Notice is further given that any interested person may, not later than October 18, 1956, at 5:30 p. m., request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for his request, and the issues of fact or law, if any, raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date the application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may grant exemption from its rules as provided in Rules U-20 (a) and U-100, or take such other action as it may deem appropriate.

By the Commission.

[SEAL]

ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 56-8167; Filed, Oct. 10, 1956;
8:46 a. m.]

FRED McDERMOTT & Co.

ORDER FOR PROCEEDINGS AND NOTICE OF HEARING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 5th day of October 1956.

In the matter of Fred McDermott, a sole proprietor, dba Fred McDermott & Co., 180 N. Wacker Drive, Chicago 6, Illinois.

I. The Commission's public official files disclose that Fred McDermott, a sole proprietor, doing business as Fred McDermott & Co., hereinafter referred to as registrant, is registered as a broker-dealer pursuant to section 15 (b) of the Securities Exchange Act of 1934.

II. The Records Officer of the Commission has filed with the Commission a statement, a copy of which is attached hereto and made a part hereof, stating that registrant did not file with the Commission reports of his financial condition during the calendar year 1955, as required by section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted thereunder.

III. The information reported to the Commission by its Records Officer as set forth in paragraph II hereof tends, if true, to show that registrant violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section.

¹ Filed as part of original document.

IV. The Commission, having considered the aforesaid information, deems it necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted to determine:

(a) Whether the statement referred to in Paragraph II hereof is true;

(b) Whether registrant has wilfully violated section 17 (a) of the Securities Exchange Act of 1934 and Rule X-17A-5 adopted under said section;

(c) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, it is in the public interest to revoke registration of registrant; and

(d) Whether, pursuant to section 15 (b) of the Securities Exchange Act of 1934, pending final determination, it is necessary or appropriate in the public interest or for the protection of investors to suspend the registration of registrant.

V. It is ordered, That registrant be given an opportunity for hearing as set forth in paragraph IV hereof at 10 a. m., e. s. t., on the 9th day of November 1956, at the main office of the Securities and Exchange Commission, located at 425 Second Street NW., Washington 25, D. C., before a Hearing Examiner to be designated by the Commission. At such time the Hearing Room Clerk in Room 193, North Building, will advise the parties and the Hearing Examiner as to the room in which such hearing will be held. The Commission will consider any motion with respect to a change of place of said hearing if said motion is filed with the Secretary of the Commission on or before October 26, 1956. Upon completion of any such hearing in this matter the Hearing Examiner shall prepare a recommended decision pursuant to Rule IX of the rules of practice unless such decision is waived.

It is further ordered, That in the event registrant does not appear personally or through a representative at the time and place herein set or as otherwise ordered, the Hearing Room Clerk shall file with the Records Officer of the Commission a written statement to that effect and thereupon the Commission will take the record under advisement for decision.

This order and notice shall be served on registrant personally or by registered mail forthwith, and published in the FEDERAL REGISTER not later than fifteen (15) days prior to November 9, 1956.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon the matter except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of section 4 (c) of the Administrative Procedure Act, it is not deemed to be subject to the provisions of the section delaying the effective date of any final Commission action.

By the Commission.

[SEAL]

ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 56-8168; Filed, Oct. 10, 1956;
8:47 a. m.]

[File No. 70-3519]

OHIO POWER CO. AND AMERICAN GAS AND ELECTRIC CO.

NOTICE OF FILING REGARDING ISSUANCE AND SALE OF FIRST MORTGAGE BONDS AND PREFERRED STOCK AT COMPETITIVE BIDDING, ISSUANCE AND SALE OF COMMON STOCK AND ACQUISITION THEREOF BY PARENT, CASH CONTRIBUTION BY PARENT AND TRANSFER THEREOF BY SUBSIDIARY TO CAPITAL STOCK ACCOUNT

OCTOBER 5, 1956.

Notice is hereby given that Ohio Power Company ("Ohio"), a public utility company, and its parent American Gas and Electric Company ("American"), a registered holding company, have filed with this Commission, a joint application-declaration and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 ("act") designating sections 6 (b), 10, 12 and 12 (c) of the act and Rules U-42 and U-50 thereunder as applicable to the proposed transactions.

All interested persons are referred to the joint application-declaration, as amended, on file in the offices of the Commission for a statement of the transactions therein proposed, which are summarized as follows:

Ohio proposes to issue and sell, subject to the competitive bidding requirements of Rule U-50,

(a) \$28,000,000 principal amount of its First Mortgage Bonds -- percent Series, due 1986. The interest rate (which shall be a multiple of $\frac{1}{8}$ of 1 percent) and the price to be paid to the company (which shall be not less than 100 and shall not exceed 102 $\frac{3}{4}$ percent) will be determined by competitive bidding. The bonds will be issued under and secured by the company's outstanding Mortgage and Deed of Trust, dated October 1, 1938, as heretofore supplemented, and a new indenture supplemental thereto to be dated November 1, 1956; and

(b) 60,000 shares of -- percent Cumulative Preferred Stock, par value \$100 per share. The dividend rate (which shall be in a multiple of 0.04 of 1 percent) and the price to be paid Ohio (which shall be not less than \$100 per share nor more than \$102.75 per share), will be determined by competitive bidding.

Ohio also proposes to issue and sell, and American proposed to acquire, 110,000 shares of its common stock, no par value for \$11,000,000 cash.

American Gas proposes, prior to the sale of the above securities, to make a capital contribution of \$9,000,000 to Ohio which will be credited to Ohio's capital surplus account and thereupon transferred to its common stock account. This transaction will not increase Ohio's cash resources since it is expected that, concurrently with the making of the contribution, Ohio will pay to American a special cash dividend of \$9,000,000 on its common stock.

The net proceeds from the sales of bonds, preferred stock and common stock are to be applied, to the extent available, to the prepayment, without premium, of notes payable to banks. At the present time, notes payable to banks are outstanding in the amount of \$23,500,000 and it is expected that up to a further additional amount of \$7,500,000 may be issued, making an aggregate of not in excess of \$31,000,000 to be outstanding at the time of issuance and delivery of the securities described above. Any remaining proceeds will be added to Ohio's treasury funds and will be applied to extensions, additions and improvements to its properties.

A statement of the fees, commissions and expenses incurred or to be incurred and paid in connection with the proposed transactions will be supplied by amendment.

The Public Utilities Commission of Ohio issued an order on September 18, 1956, authorizing the proposed issue and sale of bonds, preferred and common stock by Ohio. It is represented that no other regulatory commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 18, 1956, at 5:30 p. m., request in writing that a hearing be held on such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application-declaration as amended which he desires to controvert, or he may request that he be notified if the Com-

mission orders a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may grant exemption from its rules as provided in Rules U-20 (a) and U-100, or take such other action as it may deem appropriate.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.[F. R. Doc. 56-8169; Filed, Oct. 10, 1956;
8:47 a. m.]

UNITED STATES TARIFF COMMISSION

[Investigation 54]

CERTAIN COTTON CLOTH (GINGHAMS, ETC.)

POSTPONEMENT OF PUBLIC HEARING

The Tariff Commission on October 5, 1956, ordered that the public hearing in Investigation No. 54 under section 7 of the Trade Agreements Extension Act of 1951, as amended, instituted with respect to certain cotton cloth, heretofore scheduled for October 23, 1956 (21 F. R. 4262), be postponed to 10 a. m., December 4, 1956.

The hearing will be held in the Hearing Room, Tariff Commission Building, 8th and E Streets NW., Washington, D. C.

Requests to appear: Parties desiring to appear, to produce evidence, and to be heard at the public hearing should file request in writing with the Secretary, United States Tariff Commission, Washington 25, D. C., at least three days in advance of the date of the hearing.

Issued: October 5, 1956.

By order of the Commission.

[SEAL]

DONN N. BENT,
Secretary.[F. R. Doc. 56-8170; Filed, Oct. 10, 1956;
8:47 a. m.]